
Appeal Decisions

Site visit made on 26 October 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31/01/2022

Appeal A Ref: APP/N5090/W/21/3269732

100-102 High Road, East Finchley, London N2 9EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Martin Stephens (JCDecaux UK Limited) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/5321/FUL, dated 6 November 2020, was refused by notice dated 4 January 2021.
 - The development proposed is described on the application form as 'install a state of the art Communication Hub, as per Specification in Part 2 document'.
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Appeal B Ref: APP/N5090/W/21/3269734

100-102 High Road, East Finchley, London N2 9EB

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Martin Stephens (JCDecaux UK Limited) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/5322/ADV, dated 6 November 2020, was refused by notice dated 4 January 2021.
 - The advertisement proposed is described on the appeal form as '6 sheet illuminated advertisement incorporated into a freestanding communications hub unit, as illustrated in the application documents'.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. The two appeals directly relate to the same appeal site and to each other. I have considered each on its individual merits, however as they raise similar issues, I have combined these cases in a single decision letter.
4. The relevant Regulations regarding advertisements stipulate that control may only be exercised in the interests of 'amenity' and 'public safety'. In determining appeal B, the Council's development plan policies are not determinative, but I have taken them into account as a material consideration.
5. When on my site visit, I observed that the proposed communications hub and illuminated advertisement had already been installed. Notwithstanding these being in place, I have considered the appeal based on the plans originally submitted to and considered by the Council, which form the basis of the schemes that are before me.

6. For appeal A the Council have described the development as 'Installation of public payphone/communication hub'. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.
7. For appeal B the Council have described the development as 'Installation of 86 inch advertisement located on the rear face of the communications apparatus'. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

Main Issues

8. The main issues for both appeals are:
 - the effect of the proposed development on the character and appearance and visual amenity of the area; and
 - the effect of the proposed development on highway (public) safety.

Reasons

Character and Appearance & Visual Amenity

9. The proposals are located next to the roadside edge of a relatively wide footpath adjacent to the busy East Finchley High Road. On one side there is a lamppost quite close to it with a cluster of street furniture including a rubbish bin, lamppost, bus shelter and a monopole bus stop sign on its other side. There is also a high mature tree beside this cluster of street furniture.
10. The Council's adopted Barnet Design Guidance Note 1: Advertisements and Signs (DGN), seeks advertisements that relate well to their surroundings and avoid visual clutter. Paragraph 112 of the Framework also seeks development that avoids unnecessary street clutter and responds to local character and design standards.
11. There is a good distance between the proposals and the lamppost on one side of them and the cluster of street furniture on the other side. The proposals also visually align with this street furniture and are also no wider or higher than the bus stop shelter. Consequently, given their design, scale, and location I find that they are not excessively visually prominent, do not create additional street clutter; and do not represent a visually discordant addition to the street scene in this location. As a result, they do not have an adverse visual impact on the street scene.
12. I therefore conclude that the proposed developments do not materially harm the character and appearance of the area. Accordingly, with regard to appeal A, the proposal does not conflict with the relevant requirements of Policy DM01 of the adopted Barnet Development Management Policies Development Plan Document (DMP) and the London Plan.
13. Furthermore, with respect to appeal B and for the above reasons, I conclude that the proposal also does not materially harm the visual amenity of the area. In accordance with the Regulations, I have considered the provisions of the development plan and supplementary guidance so far as they are relevant to appeal B. Policy DM01 of the DMP and the DGN seek to protect visual amenity and so are relevant in this case. As I have concluded that the proposed advertisement does not harm visual amenity, it consequently also does not conflict with this policy and guidance.
14. For similar reasons both proposals would also accord with paragraphs 112 and 130 of the National Planning Policy Framework (the Framework).

Highway Safety

15. Given their locations both proposals are within the direct line of sight of drivers travelling towards the busy junction and pedestrian crossing. In addition, the proposed illuminated advertisement also directly faces oncoming traffic.
16. Consequently, and being mindful of the speed limit and the relevant stopping distances, given their size, orientation, and location I consider it likely that the proposals are a source of visual distraction for drivers approaching the junction and pedestrian crossing from this direction. Furthermore, even though the advertisement/information images are static they do change intermittently and the fact that the proposed screen introduces a new element to the visual field of nearby drivers means that it would be reasonable to think that it potentially causes more distraction to drivers approaching the junction than what was there previously.
17. In any event, it seems to me to be self-evident that any increase in distraction for a driver is not in the best interests of highway safety. Electronic signs are designed to change display at regular intervals which could also reasonably be an added potential distraction as the eye would be naturally drawn to a changing scenario. It therefore seems valid to conclude that digitally illuminated roadside advertising can be detrimental to performance and pose a distraction for drivers, since that is their purpose. It also seems reasonable to conclude that digital displays, because of their particularly eye-catching nature, have the propensity to potentially cause greater or longer distraction.
18. As a result, even though they are located approximately 30 metres from the traffic signal heads at the junction, I consider it likely that the proposals do have an adverse impact, nonetheless. Therefore, and based on the evidence before me, I conclude that the proposals have a materially harmful effect on highway (public) safety.
19. Accordingly, in relation to appeal A, the proposal conflicts with the relevant requirements of policy DM17 of the DMP. In accordance with the Regulations, I have considered the provisions of the development plan and supplementary guidance so far as they are relevant to appeal B. Policy DM17 of the DMP and the DGN seek to protect highway (public) safety and so are relevant in this case. As I have concluded that the proposed advertisement harms highway (public) safety, it also consequently conflicts with this policy and guidance.
20. I note that given the width of the pavement that the proposals are not likely to obstruct the path of pedestrians or users of the pavement with disabilities or visual impairments. However, this is not of sufficient weight to outweigh the harm I have identified.

Other Matters

21. I note that no objections have been submitted by interested parties in relation to the proposal. However, this matter is not of sufficient weight to outweigh the harm I have identified above.
22. Chapter 10 of the Framework identifies that an advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being. It also seeks to support the expansion of electronic communications networks. However, these considerations are not without regard to the Framework as a whole. Furthermore, whilst the proposed communication hub includes a defibrillator, data connection point and further services, these merits are only of limited weight in favour of the proposal.

Conclusion

23. Notwithstanding that the proposed developments do not harm the character and appearance and visual amenity of the area, they do harm highway safety and as a result they are contrary to the adopted development plan as a whole and there are no material considerations indicating a decision otherwise than in accordance with it. Therefore, for the reasons set out above I conclude that both appeals should be dismissed.

C Coyne

INSPECTOR