
Appeal Decisions

Site visit made on 15 February 2022

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24TH February 2022

Appeal A Ref: APP/N5090/W/21/3279107

Pavement outside 47 The Broadway, Mill Hill, London, NW7 3DA

- 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 on behalf of JCDecaux UK Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/1472/FUL, dated 17 March 2021, was refused by notice dated 7 July 2021.
 - The development proposed is the installation of a Communication Hub with integral advertisement display, as per Specification in Part 2 document.
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Appeal B Ref: APP/N5090/Z/21/3279108

Pavement outside 47 The Broadway, Mill Hill, London, NW7 3DA

- 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 on behalf of JCDecaux UK Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/1473/ADV, dated 17 March 2021, was refused by notice dated 7 July 2021.
 - The advertisement proposed is the installation of a Communication Hub with integral advertisement display, as per Specification in Part 2 document.
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Decisions

Appeal A Ref: APP/N5090/W/21/3279107

1. The appeal is dismissed.

Appeal B Ref: APP/N5090/Z/21/3279108

2. The appeal is dismissed.

Procedural Matters

3. The two appeals relate to the same appeal site and to each other. I have considered each on its individual merits, but as they raise similar issues, I have combined these cases in a single decision letter.
4. The 2007 Regulations regarding advertisements stipulate that control may only be exercised in the interests of 'amenity' and 'public safety'. With respect to appeal B, the development plan policies and supplementary planning guidance referred to by the Council are not determinative, but I have taken these into account as a material consideration.

Main Issues

5. The main issues for both appeals are:

- The effect of the proposal on the visual amenity of the area; and
- The effect of the proposal on highway (public) safety.

Reasons

Visual Amenity

6. The appeal site relates to the pavement, outside 47 The Broadway, Mill Hill. The surrounding area comprises of mainly commercial units on the ground floor with mixed uses above, including some residential flats.
7. The proposed communication hub would have a height of 2630mm and a width of 1338mm. It would have a depth of 317mm plus a projecting canopy of 600mm.
8. The proposed communication hub would replace an existing double sided advertising unit. This existing unit is of a similar height above ground as the appeal proposal and is slightly wider. The proposed communication hub would be in a similar position as the existing unit, but would be sited perpendicular to the adjacent road, rather than at an angle to it. As a result of this siting, it would also protrude further into the pavement between the highway and the retail units.
9. There is an array of street furniture in the vicinity of the appeal site, including, a parking meter, rubbish bin, lamp post and other signage posts. These are generally positioned towards the edge of the pavement. Whilst the appeal proposal would be visually more prominent than the existing advertisement, it would not lead to any additional 'clutter' within the pavement. Given that the communication hub is of a similar size overall to the existing unit to be removed, I am not persuaded that it would be materially more harmful to the visual amenity of the area than that which already exists.
10. I therefore conclude that the proposal would not materially harm the visual amenity of the area. As such, with regard to Appeal A, the proposal development would not conflict with Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) (DMP), Policy D8 of the London Plan (2021) (LP), the National Planning Policy Framework (the Framework) or the Barnet Design Guidance Note 1: Advertising and Signs (DGN) insofar as they seek to protect the public realm and preserve and enhance local character.
11. With regard to Appeal B, I also conclude that the proposal would 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, Policy D8 of the LP and the DGN seek to protect visual amenity and accordingly, are relevant in this case. As I have concluded that the proposal would not materially harm the visual amenity of the area, the proposal does not conflict with these policies and guidance.

Highway Safety

12. I observed on my site visit that The Broadway is a very busy road, with the roadside parking and loading bays in constant use. There is a loading bay and parking bay in close proximity to the proposed communication hub as well as further bays on the opposite side of The Broadway.
13. The proposed advertisement would face oncoming traffic travelling in a north easterly direction. Even though the advertisement / information images are static, they are designed to change display at regular intervals which, in my view, would have considerable potential to distract drivers and other road users.
14. I appreciate that the existing double sided advertisement unit would also attract the attention of drivers and other road users. However, the frequently changing digital displays would be likely to be particularly eye-catching for drivers as they are designed for this purpose, and thus are likely to be a further distraction. This would be particularly hazardous in this area due to its busy town centre character and the intensive use of roadside parking and loading bays. It is evident to me that any increase in distraction for a driver is not in the best interests of highway safety.
15. Furthermore, the proposed communication hub would protrude further into the pavement than the existing unit, which is broadly in line with a street tree and is at an angle to the pavement. Whilst a distance of about 4.8m would be retained between the proposed development and the frontage of the commercial units, the communication hub would not be well aligned with most of the other street furniture and accordingly, could obstruct the path of pedestrians or users of the pavement with disabilities or visual impairments.
16. This therefore leads me to conclude that the proposals would have a materially harmful effect on highway (public) safety. In relation to Appeal A, the proposal would conflict with Policy DM17 of the DMP and Policies D8 and T4 of the LP which among other things, seek to ensure that the public realm is safe and to protect the safety of all road users.
17. 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. As I have concluded that the proposed advertisement would harm highway (public) safety, it would also conflict with Policy DM17 of the DMP, Policy T4 of the LP and the DGN which together seek to protect highway (public) safety and to ensure that development proposals do not increase road danger.

Other Matters

18. Chapter 10 of the Framework confirms 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. I also acknowledge that the proposed communication hub would include a defibrillator and other services, which whilst beneficial, would not outweigh the harm I have identified above.

Conclusion

19. Therefore, for the reasons given above, I conclude that both appeals should be dismissed.

J Davis

INSPECTOR