
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: 10/03/2022

Appeal A Ref: APP/N5090/W/21/3269719

137-139 Station Road, The Hale, Edgware HA8 7JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Martin Stephens (JCDecaux UK Limited) against the Council of the London Borough of Barnet.
 - The application Ref 20/5313/FUL, is dated 6 November 2020.
 - The development proposed is 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/21/3269721

137-139 Station Road, The Hale, Edgware HA8 7JG

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a failure to give notice within the prescribed period of a decision on an application for express consent to display an advertisement.
 - The appeal is made by Mr Martin Stephens (JCDecaux UK Limited) against the Council of the London Borough of Barnet.
 - The application Ref 20/5314/ADV is dated 6 November 2021. The advertisement proposed is 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 allowed and planning permission is granted for install a state of the art Communication Hub, as per Specification in Part 2 document at 137-139 Station Road, The Hale, Edgware HA8 7JG in accordance with the terms of the application, Ref 20/5313/FUL, dated 6 November 2020, and the plans submitted with it, subject to the conditions set out in the attached schedule.
2. Appeal B is dismissed and express consent to display an advertisement is refused.

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 the appeal, the Council's development plan policies are not determinative, but I have taken them into account as a material consideration in determining appeal B.

5. Both appeals relate to planning applications that were not determined by the Council within the prescribed period. The Council have subsequently issued statements for the purposes of these appeals highlighting that it would have refused the applications for planning permission and advertisement consent and the reasons for this. I have had regard to these statements in framing the main issues below.

Main Issues

6. A main issue for both appeals is:
 - the effect of the proposed development on public safety having regard to crime and anti-social behaviour.
7. Another main issue for appeal B is:
 - the effect of the proposed advertisement on highway safety.

Reasons

Public Safety (crime and anti-social behaviour)

8. The Council has raised concerns with regards to both proposals in that given their locations they would lead to a potential increase in crime and anti-social behaviour in the area. Indeed, the comments submitted by the Metropolitan Police as highlighted in the Council's statement, indicate that the appeal site is in an area with an already high levels of anti-social behaviour and instances of theft and recommend that a CCTV camera be integrated into the proposals to capture any future instances of such behaviour.
9. However, the appellant has submitted a management plan which outlines the potential measures that could be taken to prevent such potentially criminal activities which include: the installation of CCTV cameras, the prohibition of free calls to mobiles and landlines apart from emergency calls and charity calls and reverse charge landline calls and limiting the charging period for the proposal's USB charging hub.
10. Indeed, the Metropolitan Police have also commented on the proposals and recommended that an integrated CCTV camera and tactile paving be incorporated into their designs to help reduce these potential criminal activities from occurring around the proposed communication hub and the associated advertisement display which would in their view mitigate any potential harm.
11. Moreover, even though the submitted plans do not explicitly state that such measures would be taken, they could be secured via the imposition of a suitably worded condition ensuring that the proposals were implemented in accordance with the submitted management plan in consultation with the police, as per draft condition no. 9 suggested by the appellant. This would also be strengthened by the imposition of an additional condition requiring the installation of a CCTV camera before the first use of the hub.
12. Consequently, I am satisfied that if such measures were implemented and secured via the imposition of suitably worded conditions, that neither proposal would have an unacceptable adverse impact on public safety in this regard.
13. I therefore conclude that the proposals would not materially harm public safety having regard to crime and anti-social behaviour. Accordingly, they would not conflict with the relevant requirements of Policy D8 of the London Plan (LP), Policy DM01 of the DMP and Policy CS12 of the adopted Local Plan Core Strategy (CS).

Public Safety (highway safety)

14. The proposed illuminated advertisement screen would be directly facing oncoming traffic and would also be quite close to the roadside edge and the nearby pedestrian crossing. Consequently, and being mindful of the speed limit, given its size, orientation, and location I consider it likely that the proposal would be a source of visual distraction for drivers approaching the pedestrian crossing from this direction.
15. Furthermore, even though the images would be static they would change intermittently and the fact that the proposed screen would introduce a new element to the visual field of nearby drivers means that it would be reasonable to think that it would potentially cause more distraction to drivers using the junction than what is there currently.
16. In any event, it seems to me to be self-evident that any increase in distraction for a driver would not be 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 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.
17. Taking this matter in the round I am therefore not satisfied that the location of this proposed digital advertisement is such that it would not cause undue risk to public safety. I am also not satisfied that the imposition of conditions restricting the frequency and rate of change of the advertisements, or the level of brightness, would overcome the fundamental difficulties the proposal would likely cause by potentially increasing the tendency for a driver to be distracted.
18. Therefore, based on the evidence before me, I conclude that the proposal would have a harmful effect on highway (public) safety. In accordance with the Regulations, I have considered the provisions of the development plan so far as they are relevant. Policy DM01 seek to protect highway (public) safety and so are relevant in this case. As I have concluded that the proposed advertisement would harm highway (public) safety, it would consequently also conflict with this policy.

Conditions

19. The Council has suggested several conditions that it considers would be appropriate as has the appellant. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the suggested wording.
20. For appeal A, in addition to the standard implementation condition, I have imposed a necessary condition to define the plans with which the scheme should accord in the interest of precision. I have also imposed a condition specifying that materials match those shown on the approved plans in the interests of the character and appearance of the area.
21. The Part 2 Communications Hub Details was only submitted in relation to appeal B. As a result, for appeal A, I am imposing a condition requiring the submission of this document prior to the first use of the approved communications hub.
22. A Communications Hub Management Plan was only submitted in relation to appeal B. Consequently, for appeal A, I am imposing a condition requiring the submission

of similar management plan to the LPA for their approval prior to the first use of the hub in the interests of public safety.

23. Also, in the interests of public safety I have also imposed conditions requiring that the proposal would be compliant with the submitted management plan and that it would also incorporate measures that would reduce potential future instances of crime and disturbance in the area.
24. The LPA have suggested conditions restricting the levels of noise to be emitted from the proposal and that an acoustic report be submitted and approved prior to the commencement of development. However, the Council's statement has not raised any concerns in relation to this matter. Furthermore, I have no substantive evidence before me to suggest that the proposal would cause any future noise or disturbance. As a result, I am not imposing these suggested conditions as they would neither be reasonable nor necessary in this case.

Conclusion

25. For the reasons set out above I conclude that appeal A should be allowed, and that appeal B should be dismissed.

C Coyne

INSPECTOR

Schedule of Conditions – Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Part 2 Communication Hub Details; Part 5 Communications Hub Noise Level Report; Proposed Digital Communication Hub Location Plan Plotted Scale 1:1250; Proposed Digital Communication Hub Location Plan Plotted Scale 1:200.
- 3) Prior to the first use of the development hereby approved the plan Part 2 Communication Hub Details shall have been submitted to and approved in writing by the local planning authority.
- 4) The external surfaces of the development hereby permitted shall be constructed in the materials shown on approved plan Part 2 Communication Hub Details.
- 5) Prior to the first use of the development hereby approved a Communications Hub Management Plan shall have been submitted to and approved in writing by the local planning authority in consultation with the Police Service concerning the use and operation of the public information display and telephone. This management plan shall include an implementation programme. The development shall be carried out in accordance with the approved details.
- 6) The proposal shall be managed in strict compliance with the submitted and approved Communication Hub Unit Management Plan and maintained as such thereafter.
- 7) An Integrated CCTV camera shall be made operational from day 1 of official unit 'switch-on' and maintained permanently thereafter.

End of Schedule