

Appeal Decisions

Site visit made on 18 February 2022

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 11TH April 2022

Appeal A Reference: APP/N5090/W/21/3279414

Site opposite 122 Ballards Lane, Finchley N3 2DN

- 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 JCDecaux UK Limited against Barnet London Borough Council.
 - The application (reference 21/1478/FUL) was dated 17 March 2021.
 - The development proposal is described in the combined application form as “the installation of a Communication Hub with integral advertisement display”.
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Appeal B Reference: APP/N5090/H/21/3279419

Site opposite 122 Ballards Lane, Finchley N3 2DN

- 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 JCDecaux UK Limited against Barnet London Borough Council.
 - The application (reference 21/1479/ADV) was dated 17 March 2021.
 - The advertisement proposed is described in the combined application form as a “Single Sided LCD screen measuring 86”” and an “Integral Portrait LCD screen to a bespoke Communication Hub”.
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Decision

1. Appeal A (the planning appeal) is allowed and planning permission is granted for the installation of a Communication Hub with integral advertisement display, in the pavement area of the highway opposite 122 Ballards Lane, Finchley N3 2DN in accordance with the terms of the application (reference 21/1478/FUL) was dated 17 March 2021), subject to the conditions set out in the attached Schedule of Conditions.
2. Appeal B (the advertisement consent appeal) is allowed and express consent is granted for the display of the advertisement, as applied for (under application reference 21/1479/ADV dated 17 March 2021). The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations.

Procedural point

3. The local planning authority has issued notices purporting to grant both planning permission and advertisement consent, both dated 13 October 2021. The submitted appeals are dated 21 July 2021, however, and the decision notices issued by the Council were outside its powers as a local planning authority, by the time of the decisions. The appeals remain to be determined, therefore.

Main issues

4. The main issues to be determined in Appeal A, the planning appeal, is the effect of the proposed development the surroundings and its effect on highway and pedestrian safety, in the context of the Development Plan.
5. In relation to Appeal B, the advertisement consent appeal, the legislation makes it clear that the powers conferred by the Regulations may be exercised only in the interests of amenity and public safety; the Development Plan may be a material consideration but cannot be determinative. The main issue to be determined in the advertisement consent appeal also concerns the effect of the proposed development the surroundings and its effect on highway and pedestrian safety, in the context of the Development Plan.

Reasons

6. Ballards Lane connects Finchley and North Finchley (where it becomes High Road) and is a very busy thoroughfare. The northern part is the A1000 but it becomes the A598 where the appeal site is located. In the vicinity of the appeal site both frontages are primarily lined with retail and commercial premises, often with flats above, in a dense urban environment. The appeal site is located at the corner of Ballards Lane and Long Lane (which is also a busy road), almost opposite the junction with Cornwall Avenue.
7. The proposed "communications hub" would be sited in a broad pavement area at the street corner, where some planting has also been created.
8. Policy DM1 of 'Barnet's Local Plan: Development Management Policies' includes an aim to achieve attractive and safe streets in general terms, while both 'The London Plan' and the 'National Planning Policy Framework' also draw attention to the importance of these issues.
9. In this case, however, no objections have been raised on the grounds of either public safety or amenity and the Council have invited the Planning Inspectorate to allow the appeals.
10. I accept that the new communications hub would accord with the character and appearance of the surroundings and that there are no highway or other safety implications. The proposals would not conflict with planning policies (including the Development Plan) and both planning permission and advertisement consent can properly be granted.
11. I have, however, also considered the need for conditions and, in imposing conditions, I have taken account of the conditions indicated by the Council, as well as those suggested by the appellants.

12. In respect of the planning appeal (Appeal A), the usual commencement condition will apply and a condition is needed to define the planning permission by reference to the approved relevant documents (although specific reference to certain of the submitted documents is unnecessary). A specific condition is desirable (and necessary), to ensure that the existing free-standing display unit is duly removed, as proposed, and conditions are also required to control technical aspects of the illuminations, as suggested by the appellant and indicated by the Council.
13. Conditions relating to the maintenance of the installation are not appropriate for attachment to the planning permission but a management plan ought to be provided for as suggested by the appellant (which should include provision for a CCTV camera). I do not believe that a noise condition is required in this case, however, due to the nature of the location.
14. In respect of the advertisement consent appeal (Appeal B), only the five standard conditions set out in the Regulations are necessary (and they do not need to be repeated in this decision).

Roger C Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:
 - Site Location Plan 1:1250;
 - Site Location Plan 1:200;
 - Hub Unit Details Part 2;
 - Pavement Remediation Part 4;
 - Noise Level Report August 2020 Part 5;
 - "Visuals and OS Site Maps" (including site location plans).
3. No alteration shall be made to the Communication Hub that is hereby permitted, without the prior written consent of the local planning authority.
4. No later than one month after the commencement of the development that is hereby permitted, the existing free-standing display unit at the appeal site shall be removed (as shown in the application), all debris cleared away and the land made good to the same condition as the adjoining land.
5. No visual effects of any kind are to be permitted to accompany the transition between any two successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method.
6. The minimum time between successive displayed images shall be 10 (ten) seconds.
7. The intensity of the illuminance of the advertisement shall be no greater than 600cd/m² during hours of darkness.
8. Prior to the first display of the advertisement hereby approved a management plan shall be 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, and of a CCTV camera which must be incorporated into the installation.