



Appeal Decision

Site visit made on 29 March by M Long

Decision by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2022

Appeal Ref: APP/N5090/Z/22/3291299

Land adjacent to Hendon Magistrates Court, The Hyde, Colindale, London NW9 7BY

- 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 Wildstone Estates Ltd against the decision of The London Borough of Barnet.
 - The application Ref 21/5272/ADV, dated 21 September 2021, was refused by notice dated 6 December 2021.
 - The advertisement proposed is 2no digital advertisement screens.
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Decision

1. The appeal is allowed and express consent is granted for 2no digital advertisement screens as applied for. 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 and the following additional conditions:
 - 1) The advertisement displayed on the media screen shall be a series of static images, which shall not feature any flashing, moving or apparently moving images of any kind.
 - 2) Images displayed on the approved advertisement shall not change more frequently than once every 10 seconds. The interval between successive displays shall be instantaneous (0.1 seconds or less).
 - 3) The intensity of the luminance of the advertisement hereby granted consent shall be no greater than 300 candela per square metre during night-time hours. The advertisement shall be equipped with light sensors which shall constantly monitor ambient light conditions during the day and adjust brightness accordingly.
 - 4) The development to which this planning permission relates shall not commence if any part of the development for which planning permission was granted by the Secretary of State on 22 December 2017 under appeal Ref APP/Z/17/3185437 and pursuant to planning application Ref 17/4674/ADV is already commenced.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. I have amended the description of development to remove reference to a previous consented scheme in the interests of clarity.
4. There is an extant consent for a double-sided digital display at this site¹, which the appellant has stated would very likely be implemented should this appeal scheme be dismissed. However, the appeal was granted on 22 December 2017 and is time limited to five years and therefore expires on 21 December 2022. It is therefore unlikely that the extant consent would be implemented for such a short period of time. Although the extant consent remains a material consideration, I have only taken it into consideration in this context.

Main Issues

5. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) set out that powers under those Regulations shall be exercised only in the interests of amenity and public safety, taking into account the provisions of the development plan, so far as they are material, and any other relevant factors.
6. While the decision notice only mentions public safety as a reason for refusal, it is clear from the Officer's Report that the Council also found harm against visual amenity. As such, the main issues are the effect of the proposed advertisements on:
 - public safety; and,
 - the visual amenity of the area.

Reasons for the Recommendation

7. The appeal site is a small area of land along The Hyde and next to Hendon Magistrates Court, a locally listed building. The Hyde is a busy highway that has a frequently-used, signal-controlled pedestrian crossing a short distance to the north of the site, as well as nearby bus stops. The surrounding area contains large, commercial developments such as a retail park to the south of the site and a supermarket on the opposite side of the highway. There are several large scale and high-level advertisements associated with these commercial premises, a number of which are illuminated. There are several large general advertisements, including digital screens, along the wider length of The Hyde.
8. The proposal includes two side-by-side digital displays that would be angled to face the highway in each direction so that only one screen would be visible to approaching traffic at any one time. The digital screens would be capable of displaying static imagery that would change at regular time intervals. The screens would be controlled by light sensors that vary brightness according to ambient lighting.

Public Safety

9. The position of the advertisements would allow motorists heading north-west to retain clear views of the upcoming traffic lights and, although south-east bound vehicles would view the screens behind the crossing, the traffic lights would not

¹ Appeal reference: APP/Z/17/3185437

be seen directly in front of the display and so would not lead to confusion or undue distraction when the signals change. While the displays would be in proximity to the crossing and would be designed to attract attention, the wider area is characterised by various roadside advertisements, the size and illumination of which is similar to the proposal. The proposed advertisements would therefore not be an unexpected or overly distracting feature in this context.

10. There is a redevelopment scheme at the nearby supermarket site which would likely result in the increased use of the pedestrian crossing. However, as I have established above, the proposal would not cause unacceptable levels of distraction to drivers and would not therefore unacceptably harm pedestrian safety whilst using the pedestrian crossing. This would remain true even if more people were using the crossing as a result of the redevelopment scheme, because that would not affect the safety of using the crossing for any individual.
11. Given the above, the proposal would not harm public safety. As such, it would accord with Policy DM17 of Barnet's Local Plan (Development Management Policies), adopted September 2012 (DMP), which seeks to ensure that the safety of all road users is taken into account when considering development proposals. The proposal would accord with Policy T4 of The London Plan, adopted March 2021, which seeks to prevent development proposals that increase road danger. The proposal would not conflict with the Barnet Draft Local Plan 2021 to 2036 (emerging LP), which seeks advertisements that do not cause unacceptable harm to public safety. The proposal would accord with Design Guidance Note No:1 (Advertising and Signs) which states advertisements should not conflict with traffic signals or be likely to cause confusion or danger to road users.
12. Reference has been made to Policy CS9 of Barnet's Local Plan (Core Strategy), adopted September 2012 (CS), however, this is a primarily strategic policy which promotes the delivery of appropriate transport infrastructure and is not directly relevant to the modest nature of the appeal scheme.

Visual Amenity

13. The Planning Practice Guidance sets out that in practice, 'amenity' is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement, and the local characteristics of the neighbourhood should always be considered. Paragraph 136 of the National Planning Policy Framework sets out that the quality and character of places can suffer when advertisements are poorly sited and designed.
14. Given that there is a substantial amount of advertising nearby to the appeal site, several of which are large and/or illuminated, the proposal would be in-keeping with the character and appearance of the area. The proposal would be close to the locally listed building. However, it would largely be seen in the context of the building's more modern extension, rather than its historic façades, and the building is viewed within the wider commercial streetscene, and is in proximity to several existing roadside advertisements.
15. For the reasons above, the proposal would not result in unacceptable harm to the visual amenity of the area. It would therefore accord with Policies DM01, which seeks to ensure development is based on an understanding of local

characteristics, and DM06, which seeks to ensure development has regard to the local historic context, of the DMP. It would also accord with Policy CS5 of the CS which seeks to ensure development respects local context. The proposal would accord with Emerging Policies CDH03, which seeks proposals that relate to local context, and CDH09, which seeks advertisements that do not cause unacceptable harm to the character of the area, of the emerging LP.

Conditions

16. I recommend the five standard conditions as set out in the Regulations.
17. To prevent the proposal from appearing overly distracting to drivers, conditions are necessary to require all displayed images to be static, that the transition between images must be almost instantaneous, and that the changes occur not more frequently than once every 10 seconds. A condition restricting illuminance levels is necessary
18. A condition to restrict the illumination of the display screens, and to secure the use of light sensors to monitor ambient light conditions during the day and adjust screen brightness accordingly, are necessary to prevent harmful levels of distraction to drivers, and to protect the character and appearance of the area.
19. A condition to prevent the implementation of the 2017 permission and the appeal scheme is necessary because if both schemes were constructed simultaneously it would be likely to cause harm to both highway safety and visual amenity, through excessive and oddly juxtaposed advertisements.

Recommendation

20. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed.

M Long

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

O S Woodward

INSPECTOR