



Appeal Decisions

Site visit made on 23 March 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th May 2023

Appeal A Ref: APP/N5090/W/22/3310100

Pavement Outside Number 105 Ballards Lane, Barnet, London N3 1XY

- 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 22/3532/FUL, dated 7 July 2022, was refused by notice dated 1 September 2022.
 - The development proposed seeks planning permission and advertisement consent to install an open access Communications Hub, as illustrated in the attached documentation.
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Appeal B Ref: APP/N5090/H/22/3310102

Pavement Outside Number 105 Ballards Lane, Barnet, London N3 1XY

- 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 22/3533/ADV, dated 7 July 2022, was refused by notice dated 18 October 2022.
 - The advertisement proposed seeks planning permission and advertisement consent to install an open access Communications Hub, as illustrated in the attached documentation.
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Decision

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

Preliminary 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 dealt with the cases in a single decision letter.
4. For appeal B, the Council have described the development as 'Installation of 86-inch advertisement located on the rear face of the communications apparatuses. I consider that this revision provides a more accurate description of the proposal than that provided on the application form, and I have therefore determined the appeal on this basis.

Main Issues

5. The main issues in relation to Appeal A, the planning appeal, are the effect of the proposed development on i) the character and appearance of the surrounding area and ii) highway and pedestrian safety.

6. 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 issues to be determined in the advertisement consent appeal therefore are the impact of the proposed advertisement on i) visual amenity and ii) highway and pedestrian safety.

Reasons

Character & Appearance and Visual Amenity

7. The appeal site is located close to a pedestrian crossing on Ballards Lane, a busy commercial centre located on an 'A' road which links Finchley with North Finchley. Commercial premises lie on either side of the Lane in proximity to the appeal site.
8. The Council's adopted Barnet Design Guidance Note 1: Advertisements and Signs (DGN), seeks that advertisements 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.
9. The Council has raised concerns that the siting, design, and overall size of the proposals as well as the fact that the scheme for appeal B would have an illuminated advertising panel would mean that it would create a relatively stark and imposing structure within the street scene. As such, they argue it would appear excessively prominent, adding to visual clutter and thereby reducing the visibility of the high street and detracting from the area's character.
10. On my site visit I observed that the pavement where the display would be located is close to the point where the pavement widens after a row of car parking spaces and the building frontage steps forward of the previous row of shops. Some of the parking spaces in the row are occupied by a large planter and seating in front of a café. There is otherwise only a small amount of street furniture in the vicinity of the appeal site, which includes a litter bin and street signage. As a result, this section of footway contributes positively to the largely uncluttered character of much of the footway in this section of the Lane.
11. Installations of this nature are commonplace in commercial areas and their presence would not be unexpected in a high street environment such as this. However, the specific siting of the proposal before me would be particularly obtrusive and would introduce a substantial structure in a location which is currently relatively free of visual clutter.
12. Therefore, for the reasons given above the proposal would harm the character and appearance of the area adversely impacting on its visual amenity in conflict with Barnet's Development Management Policy Document 2012 (DMPD) Policy DM01 which seeks to protect the character of the borough and therefore are relevant in this case. The proposal would also conflict with the design aims of the National Planning Policy Framework (the Framework) in this respect.
13. The Council, in their refusal reason, referred to the London Plan 2021 (LP). However, no policies were cited, and, in this instance, therefore, it has not been determinative.

Highway and Pedestrian Safety

14. I have carefully considered the Council's concerns that the proposal would reduce the available pavement space in this location to the detriment of vulnerable users. The proposed position of the installation would mean that just over 4 metres of footway width would remain. The position of the proposal in relation to the build out of the pavement would mean that users of the pavement would not be unduly restricted by the presence of the proposal.
15. Nevertheless, given its location the proposal would be within the direct line of sight of drivers travelling towards the busy crossing. The proposed illuminated advertisement screen would be directly facing oncoming traffic. Whilst I understand that it would be inset further from the edge of the pavement than usual, it would nevertheless be close to the roadside edge and the nearby pedestrian crossing signals. Drivers approaching the crossing would be able to see the signal heads of the pedestrian crossing. However, the electronic advert panel would be designed to change display at regular intervals. Consequently, 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.
16. Furthermore, even though the images would be static they would change intermittently, as a result the proposed screen would introduce new images into the visual field of nearby drivers on a regular basis. It would therefore be reasonable to assume this movement and new information contained within the changing adverts could potentially cause a greater distraction to drivers approaching the pedestrian crossing than currently exists at present. This would not be in the best interests of highway safety, either for motorists or pedestrians using the crossing. It would also seem rational to conclude that digital displays, because of their eye-catching nature, could potentially cause greater or longer distraction to motorists approaching the pedestrian crossing.
17. The installation would be inset from the edge of the carriageway. Nevertheless, I cannot be certain that the positioning of the proposal would not obscure pedestrians, who may be waiting back from the edge of the carriageway at the crossing, from vehicles approaching. Although vehicle speeds would likely to be low the proposal would be detrimental to their 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. In this context and with the concerns outlined above, the proposal would create an undue risk to highway and public safety.
18. Therefore, based on the evidence before me, I conclude that the proposal would have a harmful effect on highway and pedestrian (public) safety. In accordance with the Regulations in respect of appeal B, I have considered the provisions of the development plan so far as they are relevant. DMPD Policy DM17 and London Plan Policies D8 and T4 which seek to protect highway and pedestrian (public) safety and as such are relevant in this case. As I have concluded that the proposed advertisement would harm highway and pedestrian (public) safety, it would consequently also conflict with these policies. It would also conflict with the advice set out in the Barnet Design Guidance Note 1: Advertising and Signs.

Other Matters

19. I note that the appellant states that the proposed installation is intended to be an alternative site for a similar installation which was granted on appeal close by. I have limited information in respect of this proposal. Although the site of the appeal before me shares some commonality with the site on the south side of the road, it is distinctly different in its character and relationship with other street furniture and features within the street scene. I have nevertheless determined the appeal before me on its merits based on the information before me. I also note that the site is not in conservation area and there are no listed buildings close by.
20. The imposition of planning conditions would not overcome the harm I have identified. I do not consider therefore that conditions would mitigate the harm to the character and appearance of the area.
21. 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 and this is only of limited weight in favour of the proposal.

Conclusion

22. For the reasons set out above, having considered the development plan, where appropriate, and all other matters raised, I conclude that the appeals are dismissed.

K L Robbie

INSPECTOR