
Dempsey, Matthew

From: Martin <[REDACTED]>
Sent: 11 October 2016 17:22
To: Dempsey, Matthew
Subject: Re: 121 Finchley road - 2016/4615/P & 2016/4961/A

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Matthew,

I agree to withdraw as you suggest. New drawings will be with you on Monday.

Martin

Sent from my iPhone

On 11 Oct 2016, at 11:21, Dempsey, Matthew <Matthew.Dempsey@Camden.gov.uk> wrote:

Dear Martin,

Thank you for your e-mail.

With your consent, I shall withdraw the application for planning permission, and shall extend the advertisement consent application for a decision on the 20th October.

I shall require a new proposed drawing in order to recommend approval of the screen as discussed. Please provide a revised proposed plan by Monday 17th October.

Unfortunately I am unable to extend approval beyond three years. I understand that you may seek a further approval at a later date under a more detailed application.

Please contact me if you have any queries?

Kind regards,
Matthew

Matthew Dempsey
Planning Technician

Telephone: 0207 974 3862

<image002.png> <image004.png> <image006.png> <image008.jpg>

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From: Martin MacNamara [REDACTED]
Sent: 10 October 2016 17:20
To: Dempsey, Matthew
Subject: Re: 121 Finchley road - 2016/4615/P & 2016/4961/A

Hi Matthew,

I have now had some time to digest your email and for reasons we have stated previously I remain concerned about the ability for us to find an operator for the site with the compromises you have suggested. Nevertheless, in the interests of progressing the application, I have come to the conclusion that it would be best to accept the terms you have set out below and to see whether we can indeed find a willing operator for the site on this basis.

In the interests of being upfront and open about our intentions, I cannot at this stage rule out a future application to secure consent for the original proposal, if our attempts at marketing the negotiated consent begin to flounder. In such circumstances, it would be my intention to supplement any future application with a lighting report which would model the impact of the proposal on the surrounding neighbouring properties. Undertaking this exercise will allow us to consider whether mitigation is required at all, and if it is, what the best form of mitigation would be (e.g. It may be preferable to lower the light level than reposition the screen). Prior to the submission of any future application we would also seek to establish what the new road layout is intended to be and will assess this as part of a revised road safety assessment. Whilst arguably we could agree to an extension to allow all of this work to take place, it is likely to take some weeks to complete and as such it would appear prudent to treat it as a separate exercise and to accept the compromise scheme you have suggested at this present time.

Finally, I should note that the chances of finding an operator for the site on the terms you are offering would be greatly increased if we were to be able to offer a five year consent. At present, because we have no details of what is proposed I don't consider there to be a legitimate reason to limit the length of consent. However I appreciate the reasoning behind it, and hope that we can perhaps make a suggestion that would serve the same purpose. I propose that there would be a standard five year consent, but with a requirement for the applicant or operator to submit an updated road safety report as soon as a new road layout has been agreed. This would allow the Council and TfL the opportunity to impose stricter controls at this time, or even prevent the display of adverts if there was a reason to do so. However, importantly, it would not be a condition that "bit" until the new road layout had been agreed. The fact of the matter is that even with this condition it will be much easier for us to find an operator for a site with a five year consent than a three year consent. As such, given the other restrictions in place, this is one compromise that may prevent the need for a future application on the site.

In summary, we would like to accept your offer and give this a go. If you are able to reconsider the five year consent condition this will make things much easier for us and may prevent the need to come back with a more detailed application in the future.

Once again, thanks for your time and detailed consideration of this proposal. Please let me know your thoughts and we will proceed as you suggest.

Kind regards

Martin

<image014.jpg>

On 07 October 2016 at 16:48 "Dempsey, Matthew" <Matthew.Dempsey@Camden.gov.uk> wrote:

Dear Martin,

Thank you for your e-mail. Apologies for the delay to respond, I have further discussed the application(s) with my planning manager.

I have come to the conclusion I would recommend refusal of the planning application for treatment to the facade, but could accept the advertisement consent for the digital screen given some amendments and conditions.

Planning application 2016/4615/P:

I am not in favour of the additional lighting and the impact that this may have on residents in Cresta House, particularly the lighting at the highest level. We would ask you to withdraw the planning application component of the proposal. Therefore I do not believe there is any requirement for a lighting impact assessment. I believe regard to these residents was overlooked at appeal, and any illumination further encroaching up the flank wall would be unacceptable.

Advertisement Consent 2016/4961/A:

With regards the advertisement consent, this could be acceptable under the conditions suggested by TfL, but also; provided that the top of the screen were dropped to the level of the existing advert board. This would alleviate any light breakout to the nearby residents. We would accept your offer to turn off the screen between 11pm and 7am. And I would recommend a 3 year consent period (as a compromise) to take account of the expected changes to the road layout around the Swiss Cottage gyratory. This would hopefully make the project viable for your clients, but also allow for the review in line with transport colleagues request (I previously suggested after 2 years).

In order to proceed as suggested, please confirm you are willing to withdraw the planning application in writing / by e-mail. And; please provide an amended proposed plan, with withdrawn details removed and the whole screen lowered so that the top of the proposed digital screen does not exceed the level of the existing sign.

I am prepared to accept an extension of time in order for you to produce the amended drawing required – currently the applications are due for decision 13/10/2016. May I suggest we aim for 20th October?

I shall be in the office for the next little while should you wish to discuss this now, otherwise I shall be available on Monday.

Kind regards,

Matthew

Matthew Dempsey
Planning Technician

Telephone: 0207 974 3862

   

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From: Martin MacNamara [redacted]
Sent: 07 October 2016 09:49
To: Dempsey, Matthew
Subject: Fwd: Re: 121 Finchley road - 2016/4615/P & 2016/4961/A

Hi Matthew,

Thanks for clarifying the below and look forward to hearing back from you later on. Further to my last email I took a look at the decision for the much larger digital advert we looked at on site (attached). Here it is noted that the Inspector took into account the length of time the existing display had been in situ without compliant and also proposed a curfew, this time of 11pm to 5am. Whilst it is acknowledged that this is not as close to residential properties it would still be visible from them and from the wider area, so provided we can prove that there is no material impact on the light to residential windows then this serves as a good comparison and gives an indication of how an Inspector might view it at appeal.

Whilst looking into this I also found two other appeal decisions from Finchley Road that related to illuminated advertising. Whilst these are further away, the character of the street is similar and the sites are arguably more sensitive (one is in a conservation area), and it is interesting to note that the curfew of 11pm to 5am was applied in both instances. As such I feel we are already going beyond the standard cut off time and what we are offering in the way of mitigation is fairly substantial, as well as being supported by precedent.

I hope this finds you in time to assist your discussion with your colleague. Once again, many thanks for taking the time to consider this proposal in detail and trying to find the best way forward.

I look forward to your call later today.

Kind regards

Martin

<image014.jpg>

From: "Dempsey, Matthew" <Matthew.Dempsey@Camden.gov.uk>
Date: 6 October 2016 at 15:22:42 BST
To: Martin MacNamara <Martin.MacNamara@Camden.gov.uk>
Subject: RE: 121 Finchley road - 2016/4615/P & 2016/4961/A

Dear Martin,

Thank you for your e-mail. I appreciate your thorough response. I am due to meet my line manager on Friday morning and will discuss your response with them before contacting you.

In the meantime, I can confirm there do not appear to have been any environmental health issues relating to the existing signage.

Also an extension of time will be acceptable, but you may wish to await the outcome of my discussions on Friday before commissioning any extra expenditure.

I will call you on Friday pm to clarify our position and agree an EoT date.

Kind regards,
Matthew

Matthew Dempsey
Planning Technician

Telephone: 0207 974 3862

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From: Martin MacNamara [REDACTED]
Sent: 05 October 2016 13:17
To: Dempsey, Matthew
Subject: Re: 121 Finchley road - 2016/4615/P & 2016/4961/A

Dear Matthew,

I appreciate your willingness to continue dialogue and your ongoing efforts to assist in this matter and I understand that you need to protect the interests of residents above all. I agree that it appears the previous appeal has not taken account of the residents in reaching a decision, and it would also be interesting to understand from your Environmental Health/Enforcement colleagues whether there has been record of complaints about the board as a result of this oversight.

If there has been complaints in the past, then we need to look at how this situation can be improved, perhaps by consideration of some of the measures you have suggested, although as I will go on to explain later in this note, some of these may not be possible to achieve viably given the level of investment required to go digital.

If there have been no such complaints, then we need to consider whether the proposal can be controlled to ensure that there is no additional disturbance to residents. In this regard, we can consider a condition which accurately matches the luminance to the existing display and which ensures a smooth changeover between adverts to prevent any potential "flicker" effect. Above and beyond this, the offer of an 11pm curfew we have made would improve the existing situation.

Considering the points raised in your email in turn I would comment as follows:

- In terms of the comments from TfL we would accept all of the conditions proposed (and indeed proposed these upfront with the application). With respect to the proposal by Camden highways to limit the consent to two years, we are willing to negotiate a mutually acceptable position on this matter but cannot accept a two year consent as this would render the payback period for the display unviable. Instead I would propose that a review of the operation of the display be carried out after a period of two

years in order to take account of proposed changes to the highway layout. This would allow the local authority or TfL to apply stricter controls at this point if necessary.

- We are happy to remove the LED treatment of the façade from the scheme, although would note that the proposal was to cast light at a low level against the wall in order to improve the visual amenity of the site. As such we consider this to be a benefit of the scheme and would question whether removing it would be an improvement to the scheme from the Council and residents point of view. I will leave this to you to consider or discuss with colleagues, but it is about the level of lighting we can agree to a condition requiring details of fittings and light levels to be signed off.
- I understand that the reasoning for suggesting a ten minute changeover would be for the benefit of residents rather than for road safety purposes and that the reasoning for this would be to prevent a constant change to the light levels at residents windows, which would be a nuisance. However, we do not accept that there will be a perceptible change between the sign changing every ten seconds, particularly from within properties. Whilst we would like to accept your suggestion in order to remove this as an issue, unfortunately this would kill the scheme. Frustratingly, the way that digital is sold means that often advertisers will “dominate” a time slot and there won’t in reality be a change every ten seconds (it may actually only be once a day). However, the standard sales slot is every ten or fifteen seconds and operators require this flexibility in order to get the occupancy rates needed to make the site viable. As such I would propose that we instruct a professional lighting specialist to model the area and test the light at windows including contrast between bright white to dark adverts. This should (based on their initial informal response) demonstrate that there will be no perceptible change to residents. It is likely that such a report may take two weeks to complete and as such we may require an extension of time.
- In terms of the earlier switch off time suggested, again I understand the reasoning for this and appreciate the attempts to reach a compromise from your end. Again, I’m afraid viability is the reason we cannot accept this. The reality is that London is a 24 hour city and whilst traffic fluctuates and there is sometimes a premium attached to particular times of day depending on demand, there is a basic rate card which applies at all times of day. As such in offering switch off between 11pm and 7am there is a 33% reduction in the basic level of revenue achievable on the site which is at the edges of viability in itself. The reason we suggested 11pm was not because this has no impact on sales, but because this is a worldwide recognised night time curfew. This was suggested by our planning advisor as being an appropriate time for switch off in a residential area. In contrast, whilst acknowledging your best intentions, the change you are suggesting is an arbitrary time and would increase the reduction in the base level of revenue to near 50% which is untenable.

I hope that this helps explain our position. We are absolutely willing to negotiate and to get this right, but we need to ensure it is a deliverable scheme or it becomes a futile exercise.

In summary, we would like to be allowed an extension of time to instruct a lighting specialist to demonstrate our case with respect to the impact on the neighbouring properties. We are happy to abide by the advice given within this report even if it includes turning down the maximum lighting levels to well below that set by the ILP. However, at the present time we cannot see how we would be able to deliver investment into the site if the signage is switched off at 8pm, the rate of changeover is limited, or the length of consent is limited.

I would welcome your thoughts on the above.

Kind regards

Martin

On 04 October 2016 at 17:18 "Dempsey, Matthew" <Matthew.Dempsey@Camden.gov.uk> wrote:

Dear Martin,

Re: 121 Finchley Road. London. NW3 6HY

2016/4615/P - Treatment to north facing façade associated to installation of digital media advert (2016/4961/A).

2016/4961/A - Installation of internally illuminated digital media advert with associated treatment to north facing façade.

Further to our telephone discussion this morning, I mentioned the scheme as proposed would be unacceptable due to the impact on residential amenity for the flats in Cresta House. I believe the appeal decision ref: APP/X5210/H/12/2170846, was made without regard to residential properties in close proximity to the site, appeal decision reason 6 "The wall [site location] is immediately adjacent to a large modern commercial building (Overground House) some nine storeys high". And; reason 8 "It [now existing hoarding] would be fairly prominent when viewed from the north but would not be unduly dominant or intrusive, particularly given that the large commercial building looming next to it forms part of the context in which it would be seen", the context here is of a commercial building, whereas it is actually a mixed use building, mainly residential.

There have been a number of objections to the proposals from residents in Cresta House who are concerned about the impact on their amenity due to light pollution. Some of their objections relate to moving/flashing images, which do not form part of the proposal, however the point about general impact due to the proposed lighting is an issue.

In addition to this, I have received comments from TfL who have suggested the following conditions in order to accept the proposal:

The intensity of the illumination of the sign shall not exceed 300cd/m;

- The sign shall not display any moving, or apparently moving, images;
- The display shall not change more than once every 10 seconds;
- Any sequential change between advertisements will take place over a period no greater than one second.

Colleagues in the transport team have provided comments (attached) which raise concerns over the duration of the proposed display. They have suggested a two year consent period to allow for re-assessment at the point when the Swiss Cottage junction and Cycle superhighway are likely to alter the constraints of the site.

Having discussed the issues with planning colleagues and taken account of concerns raised, I have come to the conclusion that the proposal as it is would not be acceptable.

When we spoke earlier I said I would outline what I would changes would need to be made to allow for the replacement of the existing hoarding to a digital screen.

1. In my view the LED treatment to the façade may cause too much unwanted light pollution and should therefore be removed from the scheme. I would need to see revised proposed plans to demonstrate these changes.
2. Although TfL have suggested "the display shall not change more than once every 10 seconds", I would suggest varying this to appease the residents to; once every 10 minutes & include the rest of their condition suggestions outlined above.
3. You had indicated you would be prepared to switch the screen off between 11pm and 7am in a previous e-mail, this is welcome, however, I would suggest an earlier switch off time in the evening; 8pm. This would allow for the advert to be seen in the busiest times of the day, but would be less harmful to residential properties in close proximity.
4. Also rather than giving consent for the usual 5 year period as applied, if you were to agree to the above, I would be minded to recommend approval for a 2 year period, which would allow for a review to gauge the impact, and may allow for the conditions above to be varied. This is also in line with comments from colleagues in Transport with regards to likely redevelopment of the Swiss Cottage junction and cycle superhighway (I have attached their full comment to this e-mail, but it is also available online).

Please respond in writing to confirm if all points are acceptable by this Friday (07/10/2016). I will need revised drawings in order to recommend approval, but I can wait a bit longer for a drawing if necessary. The decision is due by 13/10/2016, but we could agree an extension of time if required.

If I do not receive written confirmation of acceptance, then I will recommend refusal. Either way, I would expect to give you a final decision by next week, depending on the arrival of any revised documents.

Should you have any queries, please contact me.

Kind regards,

Matthew

Matthew Dempsey
Planning Technician
Regeneration and Planning
Supporting Communities
London Borough of Camden

Telephone: 0207 974 3862
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London N1C 4AG

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