
Appeal Decision

Site visit made on 14 March 2017

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 April 2017

Appeal Ref: APP/D5120/Z/16/3160958

Public footway outside 327 Broadway, Bexleyheath, DA6 8AJ

- 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 Andrew Jordan, JCDecaux UK Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 16/01119/ADV, dated 15 September 2015, was refused by notice dated 31 August 2016.
 - The advertisement proposed is described as a "double-sided freestanding Forum Structure, featuring 2 x Digital 84" screen positioned back to back. The digital screen is capable of displaying illuminated, static and dynamic content, supplied via secure remote connection. In the event of an emergency, TfL will be able to override the advertisement function and display an 'Emergency Message', alerting the public of immediate danger."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue raised by this appeal is the effect the proposed advertisements would have on public safety.

Reasons

3. The site is currently occupied by a bus shelter whose structure, including display panels for advertisements and information, runs parallel to the carriageway. A cantilevered roof extending back over the footway enables pedestrians to pass underneath. The proposed advertisements would be displayed on a freestanding display unit underneath the bus shelter canopy, perpendicular to the carriageway and projecting into the footway.
 4. The footway adjoins what the Council advise are the private forecourts of commercial units along Broadway. These forecourts are not enclosed, are level with, and have very similar surfacing and appearance to the footway. There are currently no physical impediments to footway users traversing over these forecourts to progress up and down the street. The proposed advertisements, as a result of their projection, would reduce the effective public footway width at its closest point to the forecourts to 0.4m, according to the Council's figures.
 5. In this current arrangement the advertisements would not act as a barrier to pedestrians, including those using wheelchairs, provided they could use part of the flush forecourt to pass the advertisements. However, on the basis of the
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information before me, this would require using private land outside the public footway. There may not be a right for such access to take place and therefore no certainty that it would remain available for such a purpose. I noted that forecourts outside some commercial premises opposite the site on the north side of the street have been enclosed with planters and bollards as well as being used for car parking.

6. Should the forecourt adjoining the appeal site be altered or enclosed in any way, even with temporary paraphernalia or a minor change in level, this would have the effect that it would considerably narrow the available space for pedestrians, especially those in wheelchairs, to pass. This pinch point would be inconvenient for pedestrians and in all likelihood impassable for wheelchair users. In such circumstances an alternative would be to negotiate the advertisement by way of the carriageway which could lead to anyone doing so putting themselves at risk of serious harm from vehicles.
7. I have no evidence before me to suggest that the enclosure or alteration of the forecourts in such a way could be resisted or prevented in the event that the advertisements were put in situ. Given the treatment of other forecourts in the area, this would be more than a theoretical possibility. Therefore, in the absence of any evidence that the forecourt could be permanently made available for pedestrian use, the proposal would harm public safety.
8. I have taken into account the Highways Authority's objections in this regard. I have also taken into account Core Strategy¹ Policy CS15 and saved UDP² Policy T16 which seek to reduce the risk of accidents to pedestrians and promote safety, health and wellbeing, amongst other criteria. These policies are material in this case insofar as they relate to public safety and, given that I have concluded that the proposal would harm public safety, the proposal conflicts with these policies.
9. Any benefits the proposal would have through its emergency messaging facility would not outweigh the harm to public safety. The appellant considers that the bus shelter structure would benefit from permitted development rights and that unilluminated advertisements in a similar location would benefit from deemed consent. However, I am required to determine the appeal on the basis of the proposal before me. In any event, even if the appellant is correct in his interpretation of the permitted development and deemed consent position, the drawing states that the display structure would be freestanding rather than part of the shelter. Furthermore, as the illuminated nature and dynamic capabilities of the proposal are integral features of the advertisements, I have no reason to conclude that the appellant would be likely to proceed to implement an unilluminated option.

Conclusion

10. For the reasons set out above, and having had regard to all other matters raised, the siting and location of the advertisements would harm public safety and the appeal is therefore dismissed.

Geoff Underwood

INSPECTOR

¹ Local Development Framework Development Plan Document – Bexley Core Strategy, 2012.

² Bexley Council Unitary Development Plan, 2004.