
Appeal Decision

Site visit made on 10 July 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 31st July 2017

Appeal Ref: APP/T5150/Z/17/3171491

149-153 Kilburn High Road, London NW6 7HW

- 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 Mohamed Ahmed of JCDecaux UK LTD against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/4759, dated 2 November 2016, was refused by notice dated 9 January 2017.
 - The advertisement proposed is double-sided freestanding forum structure, featuring 2 x Digital 84" screen positioned back to back.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on public safety.

Reasons

3. The appeal site is located outside No 149-153 Kilburn High Road. There is an existing back-to-kerb, open-sided bus shelter. The open sides of the shelter allow pedestrians to use almost the full width of the pavement at this point, which is 1.9m when measured from the shelter to the front elevation of the adjacent shops. The proposed display unit would infill the north west side of the shelter.
4. This stretch of pavement on Kilburn High Road is very busy with people visiting the numerous shops, cafes and commercial premises within the vicinity of the appeal site.
5. The Council contends that Manual for Streets (MfS) states that a minimum unobstructed width of 2m should be maintained on lightly used streets and additional width is to be considered for shop areas, which includes Kilburn High Road. The appellant has not disputed this and based on the observations I made during my site visits I find no reason to disagree. Similarly, the Transport for London Accessible Bus Stop Design Guidance also suggests a minimum width of 2m.
6. The width of the display unit would significantly reduce the usable width of the pavement, resulting in a pinch point between it and the adjacent shop frontage. I find that such a reduction on a stretch of pavement that is already busy would impede the free flow of pedestrians. This would likely result in

conflict between pedestrians using the pavement and those waiting at the bus stop, leading to unnecessary congestion and inconvenience to users. Furthermore, it would also likely lead to conflict between users and encourage pedestrians to step into the road to avoid the bus shelter and congested area, which would pose an unacceptable risk to their safety.

7. The Council also contend that due to the proximity of the appeal site to the junction of Kilburn High Road and Priory Park Road, the display unit would reduce the sight distance for cars existing Priory Park Road and therefore represents harm to highway safety.
8. The drawings indicate that the appeal site is approximately 19.1m from the junction. The Council have not disputed this. I have not been presented with any local or national policy or guidance with regard to minimum sight line distances. Accordingly, I have based my assessment on the observations I made during my site visit.
9. Kilburn High Road is a heavily used road. The bus shelter is within proximity of the junction. Its back is adjacent to the road and obstructs visibility to some extent. Therefore, whilst the display unit would obstruct visibility of the pavement, given the position of the back of the shelter, I do not agree with the Council's view that it would impede sight lines of the road to such an extent that it would be harmful to highway safety. The visibility of oncoming traffic approaching from the south east when waiting at the junction would not be significantly diminished. Therefore, I do not find that it would significantly harm highway safety in this respect. However, this does not affect my findings regarding pedestrian safety.
10. In their reasons for refusal, the Council have cited Policy DMP1 of the London Borough of Brent Local Plan Development Management Policies 2016 and the Council's Advertisements (other than shops) Supplementary Planning Guidance Number 8, which they consider to be relevant to this appeal. I have taken them in to account as a material consideration. However, the power under the 2007 Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. Accordingly, whilst I have taken account of the Council's policies, they have not, by themselves, been decisive.
11. I find therefore that the proposal would represent an unacceptable risk to pedestrian safety. Consequently, it would be significantly detrimental to the interests of public safety.
12. I acknowledge the benefits of the advertisements, including generating revenue for Transport for London to invest in transport infrastructure; the ability to utilise the digital screen as an emergency messaging service; and, the energy efficiency of the digital screens. I also appreciate that there would be no harm to amenity. However, individually or cumulatively, these matters do not outweigh the harm they would have on public safety.
13. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR