The Planning Inspectorate

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: 1st August 2017

Appeal Ref: APP/T5150/Z/3171490
Bus Shelter Advertisement, 77 Kilburn High Road, London NW6 6HY

- 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 16/4763, dated 2 November 2016, was refused by notice dated 10 January 2017.
- The advertisement proposed is a double-sided freestanding forum structure, featuring 2 x Digital 84" screen positioned back to back.

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 on the pavement outside No 77 Kilburn High Road. There is an existing bus shelter located between the front elevation of No 77 and the back of the kerb. The shelter has an open front and side panels which extend approximately halfway across the depth of the shelter. To the rear of the shelter there is 0.9m of usable pavement between the back of the shelter and the outdoor seating area associated with No 77.

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 proposed digital display unit would be positioned at the north west end of the shelter and would be almost its full width. There appears to be a dispute between the parties as to how much usable pavement would be between the shelter and the kerb. The Council state that there is currently only 1.6m, whereas the appellant contends that even with the display unit in position, there would still be 2m of pavement.

6. Notwithstanding this dispute, 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.

7. The width of the display unit would significantly reduce the usable width of the pavement, resulting in a pinch point between it and the kerb. 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 and lead 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, which would pose an unacceptable risk to their safety.

8. Therefore, even if a usable pavement width of 2m was retained, given the high level of use of this stretch of pavement I consider that it would be insufficient and would have an unacceptably harmful effect on public safety.

9. The Council also contend that due to the proximity of the appeal site to the junction of Kilburn High Road and Brondesbury Villas, the display unit would reduce the sight distance for cars existing Brondesbury Villas and therefore represents harm to highway safety.

10. The drawings indicate that the appeal site is approximately 12.5m 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.

11. Kilburn High Road is a heavily used road. The bus shelter is within proximity of the junction. However, its transparent design and set back position from the highway ensure it does not obstruct visibility at the junction. In addition, there is a cluster of street furniture on the south east side of the junction, adjacent to the pedestrian crossing. This includes a litter bin, what appears to be a CCTV camera mounted on a pole and a sign post. Similarly, these do not obstruct visibility at the junction.

12. However, the display unit would infill almost the entire north west side of the shelter, eliminating any existing views through it and significantly reducing the sight lines in a south easterly direction at the junction. As I observed at approximately lunchtime in the middle of the week, the road experiences a high level of traffic. In my judgement and in the absence of any evidence to the contrary, this reduction in visibility would have a significantly harmful effect on highway safety.

13. 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.

14. I find therefore that the proposal would represent an unacceptable risk to highway and pedestrian safety. Consequently, it would be significantly detrimental to the interests of public safety.

15. 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.

16. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR