



Appeal Decision

Site visit made on 28 February 2023

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2023

Appeal Ref: APP/G5180/Z/22/3297599

**Footpath on Crofton Road, Locksbottom, Orpington, Bromley, London
BR6 8NR**

- 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 British Telecommunication PLC against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/02631/ADV, dated 11 May 2021, was refused by notice dated 28 February 2022.
 - The advertisement proposed is described as 'Two digital 75 inch LCD display screen, one on each side of the amended InLink unit'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposal and the site address in the above heading are taken from the application form. The Regulations¹ set out that advertisements should be subject to control in the interests of amenity and public safety. The Council has objected to the application on grounds relating to the latter, which has informed the main issue identified below.

Main Issue

3. The main issue is the effect of the proposal on public safety having regard to pedestrian movement.

Reasons

4. The site relates to a section of public footway near two bollards that are adjacent to the Crofton Road carriageway. The site is also close to a paved area in front of a shopping parade and partly delineated by bollards. The locality features a range of commercial properties and has a busy feel. Further, Crofton Road is an A-road and appears to feature relatively high traffic volumes. A digital kiosk described as a 'Street Hub' is proposed that would have advertisements on two sides and be around 1.2 metres wide. A telephone box about 60 metres from the site would also be removed.
5. In accordance with the Regulations, I have considered the provisions of the development plan so far as they are relevant. Policies 33, 37 and 102 of the Council's Local Plan (LP) require that proposals are not likely to create hazards for road users and ensure suitable access and movement for all highway users.

¹Regulation 3(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

6. The proposal would extend across much of the footway's width. The appellant argues that pedestrians can and would continue to travel over the paved area, which is reported to be in the ownership of adjacent properties and not highway land. It appears that pedestrians currently move freely across the paved area. However, firm evidence has not been provided to demonstrate that pedestrians have any definitive legal access rights relating to the paved area, or that it will remain in its current form for the proposal's intended lifespan. Additionally, I am mindful that permitted development rights enable the erection of means of enclosure without planning permission². There is nothing before me which indicates that such or similar rights have been withdrawn or will not be used. Consequently, I cannot be sure that pedestrians would be able to rely on the paved area to manoeuvre around the kiosk and thus need to consider whether it could be passed safely using highway land alone.
7. Although the drawings show that there would be a small gap on the footway between the kiosk and the carriageway, pedestrians would have to weave around the kiosk between the adjacent bollards. I am not satisfied that the gap would be wide enough for all pedestrians, including disabled people, to do this. Consequently, there is a realistic prospect that some pedestrians would be forced to enter the carriageway if the paved area were inaccessible. Having regard to the characteristics of the area as described above, this would give rise to significant public safety risks in terms of conflicts between pedestrians and vehicles.
8. It has not been demonstrated that the proposal would not result in significant risks to public safety. The proposal conflicts with LP Policies 33, 37 and 102.

Other Matters

9. The appellant alleges that the proposal would have several benefits including providing free wi-fi, telecommunication, device charging, public service and improved 4G and 5G facilities. However, neither the Regulations nor the National Planning Policy Framework indicate that factors other than amenity and public safety considerations can be taken into account either for or against a proposal. Moreover, even if the benefits could be considered, the potential public safety harm would not be outweighed.
10. The Council's decision notice does not allege that the advertisements would be injurious to amenity. However, the appellant's statement of case suggests that the Council refused a planning application for the kiosk on both amenity and public safety grounds. Any findings in respect of amenity considerations would not address or outweigh my concerns in respect of public safety and thus have no bearing on the outcome of this appeal. Hence, I have not explored the proposal's amenity impacts further.

Conclusion

11. In the interests of public safety, the appeal is dismissed.

Mark Philpott

INSPECTOR

² Class A, Part 2, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015