
Appeal Decisions

Site visits made on 10 August 2023

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2023

Appeal A Ref: APP/Z0116/Z/22/3309965

Bus shelter outside 567 Fishponds Road, Bristol BS16 3AF

- 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 Richard Wilson for Clear Channel against Bristol City Council.
- The application Ref 22/02266/A, dated 6 May 2022, was refused by notice dated 2 September 2022.
- The proposed advertisement is to replace existing Double-sided Internally Illuminated 6-sheet Bus Shelter advertising displays with Double-sided digital displays.

Appeal B Ref: APP/Z0116/Z/22/3309968

Bus shelter outside 427 Wells Road, Knowle, Bristol, BS4 2QW

- 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 Richard Wilson for Clear Channel against Bristol City Council.
 - The application Ref 22/02269/A, dated 6 May 2022, was refused by notice dated 2 September 2022.
 - The proposed advertisement is to replace existing Double-sided Internally Illuminated 6-sheet Bus Shelter advertising displays with Double-sided digital displays.
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Appeal C Ref: APP/Z0116/Z/22/3309971

Bus shelter outside Clarence House, Clarence Road, Bristol, BS1 6PZ

- 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 Richard Wilson for Clear Channel against Bristol City Council.
- The application Ref 22/02274/A, dated 6 May 2022, was refused by notice dated 2 September 2022.
- The proposed advertisement is to replace existing Double-sided Internally Illuminated 6-sheet Bus Shelter advertising displays with Double-sided digital displays.

Appeal D Ref: APP/Z0116/Z/22/3309972

Bus shelter opposite Morrisons, Fishponds Road, Bristol, BS16 3UH

- 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 Richard Wilson for Clear Channel against Bristol City Council.
- The application Ref 22/02836/A, dated 7 June 2022, was refused by notice dated 2 September 2022.
- The proposed advertisement is to replace existing Double-sided Bus Shelter advertising displays comprising one digital display and one internally illuminated 6-sheet display, with Double-sided digital displays.

Decisions

1. **Appeal A** is allowed and consent is granted to replace existing Double-sided Internally Illuminated 6-sheet Bus Shelter advertising displays with Double-sided digital displays as applied for. The consent is subject to the five standard conditions set out in Schedule 2 of the Regulations and to the additional conditions contained in the Schedule to this decision letter.
2. **Appeal B** is allowed and consent is granted to replace existing Double-sided Internally Illuminated 6-sheet Bus Shelter advertising displays with Double-sided digital displays as applied for. The consent is subject to the five standard conditions set out in Schedule 2 of the Regulations and to the additional conditions contained in the Schedule to this decision letter.
3. **Appeal C** is allowed and consent is granted to replace existing Double-sided Internally Illuminated 6-sheet Bus Shelter advertising displays with Double-sided digital displays as applied for. The consent is subject to the five standard conditions set out in Schedule 2 of the Regulations and to the additional conditions contained in the Schedule to this decision letter.
4. **Appeal D** is allowed and consent is granted to replace existing Double-sided Bus Shelter advertising displays comprising one digital display and one internally illuminated 6-sheet display, with Double-sided digital displays as applied for. The consent is subject to the five standard conditions set out in Schedule 2 of the Regulations and to the additional conditions contained in the Schedule to this decision letter.

Preliminary and procedural matters

5. The Council, following a tender, awarded the appellants a City-wide bus shelter advertising concession agreement. They applied for consent to display advertisements on many sites, some of which were refused. All 4 appeals therefore involve sites in the Bristol area, with the same appellants.
6. All the proposals involve the replacement of existing advertisements on bus shelters with double-sided digital displays. The replacement digital displays would portray static advertising images that change every 10 seconds.

7. Having considered the matter in detail, and as seen in the respective officer reports, the Council raises no concerns regarding amenity on any of the appeals but is solely concerned with public safety.
8. I have noted the views expressed by some Bristol residents on amenity issues, and on advertisements of this type generally particularly with regard to light pollution and energy conservation. These views have been considered, but I have no reason to disagree with the Council's stance in respect of amenity on any of the proposals.
9. Reference has been made to the *National Planning Policy Framework*. Its guidance underlines the fact that the powers under the current Regulations to control advertisements may be exercised only in the interests of amenity and public safety. In this context, having regard to the main issue identified for all the appeals, the development plan policies which I consider most relevant¹ have been treated as material considerations.
10. I visited all four sites. I carried out my inspections on foot, but since the Council's objections are primarily concerned with highway safety and the alleged distracting effects of the proposed advertisements on passing motorists, I also drove past all the bus shelters concerned in both directions.
11. The proposals have been considered and the appeals determined on their individual merits.

Main issue

12. The main issue in all four appeals is the effect of the proposed advertisements on public safety.

Reasons

13. Digital advertisements of the size and form proposed are commonly seen in urban areas on highway networks. Consequently, having regard to the *Planning Practice Guidance* (the Guidance), they are not generally of an '*unusual nature*'. Therefore, they are generally unlikely to be a distraction to road users in normal driving conditions.
14. However, the Guidance also advises that public safety could be affected where advertisements are located, for example, at junctions, roundabouts, pedestrian crossings, or other places where local conditions present traffic hazards. That guidance is kept very much in mind in assessing the proposals.

Appeal A

15. The bus shelter is sited on Fishponds Road (A432), one of the City's main distributors. In this part of A432 there are mixed residential and commercial uses on either side of the road. The shelter is sited on the northern frontage alongside a bus boarder, a platform built out into the carriageway from the footway. The advertisement would be inserted in its north-eastern elevation.
16. Clear markings on the highway indicate that this is a bus stop, and a bus lane is in operation on the other side of the road. Thus, the effective carriageway for private motor vehicle use is significantly narrowed and, as I saw when the bus

¹ In particular, those provisions of Policy BCS10 of the Bristol City Council Core Strategy and Policy DM23 of the Council's Site Allocations and Development Management Policies concerned with highway and pedestrian safety.

stop was in use, the free flow of traffic is impeded, as intended. The bus shelter lies just within the 30mph zone, and I observed that traffic speeds appear to be low.

17. The Council is concerned that the proposed advertisement would distract motorists travelling in a north-easterly direction on the section between the junction of Brentry Road and the bus stop. Between this junction and the bus stop are a traffic island and road markings setting out short waiting lanes for motorists wishing to turn into McDonalds or Drummond Road respectively on either side of the road. The Council fears that approaching motorists would be distracted by the advertisement thus unacceptably increasing risk of accidents at this junction both in respect of turning traffic and pedestrians using the island as an informal crossing point.
18. The Council is also concerned that motorists, once past the McDonald's junction, may become distracted on a section of highway where full attention is required, given the presence of private driveways emerging onto the highway along its' northern frontage.
19. On-street parking is allowed on parts of the A432 on its northern frontage, and many spaces were in use during my visit, as I would expect in this busy part-commercial location. Parked cars on drivers' nearside effectively screen views of the bus stop for some of the distance between Brentry Road and the appeal site. Moreover, the distance between Brentry Road and the appeal site is generous. It is most improbable, in my view, that the advertisement would play a part in motorists' perception in the short stretch between Brentry Road and McDonalds, or that they would become distracted by it.
20. Beyond McDonalds, the bus stop would become more visible to motorists approaching it, despite the presence of parked cars on their nearside. However, given the lines of available visibility generally on this section of highway, the relatively low level of the advertisement, and the distance between McDonalds and the shelter, it is most unlikely in my view that motorists would become distracted by the advertisement from their principal task of safe driving.
21. I therefore conclude that the display of the advertisement in the manner proposed would not put public safety at unacceptable risk.

Appeal B

22. The bus shelter is sited on Wells Road (A37) one of the City's main distributors. In this part of A37 there are residential and commercial uses on either side of the road. The shelter is sited on the western frontage on the footway, adjacent to what appears to be a former shopping parade now occupied by a variety of commercial users including a repair garage. The advertisement would be displayed in the shelter's northern elevation.
23. The Council's concerns relate to the prospect of the advertisement distracting drivers as they approach it from north and south. In this regard a zebra crossing is located on the A37 just south of its junction with St Martin's Road, and to the north of the shelter. In addition, concern is expressed at the proximity of the shelter to the A37's junction with Greenleaze, where the Council says that *vehicles may exit or enter onto Wells Road at high speed*, and that distracted motorist may endanger cyclists using the cycle lane at this junction.

24. The shelter is sited on the footway, alongside a layby created for the bus stop it serves. When approaching from the north, at the A37's junction with St Martin's Road, the shelter is barely discernible to motorists because of its off-set position. Clear views of the zebra crossing are available to approaching motorists driving southwards, and since the bus shelter is sited about 50m beyond the crossing, it is highly unlikely to be a source of distraction.
25. A 20mph sign is in place just off the A37's junction with Greenleaze, and as I saw, motorists appeared to comply with this limit. Drivers emerging from Greenleaze generally approached the give way sign at the junction with the A37 with care, and during my visit I saw none approaching the junction at *high speed*. Once onto the A37, motorists' view of the shelter is disrupted in part by parked cars on their nearside. Given the reasonable distance between the shelter and the zebra crossing, I do not share the Council's view that the advertisement would cause a distraction prejudicing the safe operation of the pedestrian crossing. I do not consider, if the advertisement was in place, that those using the cycle lane at Greenleaze junction with the A37 would be at any greater risk than they are now.
26. Taking all matters into account the display of the advertisement in the manner proposed would not put public safety at unacceptable risk.

Appeal C

27. The bus shelter is sited on Clarence Road (A370) on the fringes of the City Centre. The road runs alongside the river Avon to the south, whilst residential uses predominate to the north. The shelter is sited in the footway on the northern frontage of the road. The advertisement would be displayed in its eastern elevation.
28. A light controlled pedestrian crossing is located 35-40m or so west of the shelter subject of appeal. The crossing links the northern frontage of Clarence Road to a footbridge crossing the Avon and emerging on York Road. The Council's concern is that the proposed display would distract motorists as they approached the pedestrian crossing so that they may become confused, particularly if similar colours to those showing on the traffic lights were displayed on the advertisement at the same time. This, it is felt, could potentially put the users of the crossing at risk.
29. I drove past the shelter and lights in both directions. I noted, given the parking restrictions in force, that forward visibility was good in both directions. From the west, a clear view of the pedestrian crossing is obtained, with the shelter, because of the slight curve in the road, offset to the left in the background, and well outside the main line of vision to the lights.
30. When approaching from the east, forward visibility is again very good, and the lights are clearly seen from a reasonable distance away. The shelter is offset from both lights, and the distance between the shelter and the lights, to my mind, gives motorists more than sufficient opportunity to properly see and, if necessary, react promptly to changes in signal.
31. I do not therefore consider that the display of the proposed advertisement would unacceptably increase the risk of accidents or harm public safety.

Appeal D

32. The bus shelter is sited on Fishponds Road (A432) one of the City's main distributors, not too distant from that subject of appeal A. The shelter is sited on the northern frontage under a tree canopy, next to fenced school grounds. Shopping uses predominate on the other side of the road. The advertisement would be inserted in the shelter's eastern elevation.
33. About 50m west of the shelter is a light controlled junction. To the east, about 30m or so away from the shelter is a light controlled pedestrian crossing. A bus lane operates on the other side of the road, and another shelter stands almost opposite.
34. The Council's concerns centre on the prospect of motorists being distracted by the advertisement as they approach the light controlled pedestrian crossing from the east. The crossing is likely to be used by schoolchildren at peak hours and by shoppers throughout the day. Their safety could thus be put at risk.
35. To my mind, the Council have given insufficient weight to three factors in their assessment. First, the highway is subject to a 20mph limitation, and I have been given no indication in the representations that speeds in this section of the A432 are excessive. Second, the westbound approach to the pedestrian crossing and shelter is straight, with no parking on the nearside, thus enabling motorists to have clear forward vision; lastly, at the pedestrian crossing, a third light is present, in addition to the installed at either side of the pedestrian crossing. The third light is set at a high level above the carriageway, well above the line of vision to the bus shelter.
36. Taking all these factors into account, I do not consider that the Council's concerns as to the safety of future users of the pedestrian crossing are warranted.

Conditions

37. I therefore intend to allow the four appeals. I have considered the need for conditions in addition to the standard conditions.
38. The Council has suggested a condition relating to luminance but have given little or no specific guidance as to wording, especially in its questionnaire response. I have noted the appellant's comments on this aspect, and its reference to guidance provided by the Institution of Lighting Professionals. That guidance has been updated recently. In the circumstances, and in the interests of amenity and safety, I shall impose a slightly varied version of the model condition contained within Professional Lighting Guide 05/23 – The Brightness of Illuminated advertisements including digital displays (the Guide).
39. I shall also impose other conditions to require a cut out in the event of malfunction; to control the frequency of image change; to ensure that images remain static, and to control the hours of display, as intended by the appellants. These conditions are necessary to safeguard public safety and in the interests of visual amenity.

Other matters

40. All other matters raised in the representations have been considered but none outweighs the considerations that led me to my conclusions on any of the four appeals.
41. For the above reasons I conclude that all the appeals should be allowed, subject to conditions.

G Powys Jones

INSPECTOR

SCHEDULE OF CONDITIONS in addition to the standard conditions in respect of Appeals A, B, C & D

- 1). The advertisement display shall contain at all times a feature that will turn off the screen (i.e. show a blank unlit screen) in the event that the display experiences a malfunction or error.
- 2). The advertisement shall only display static images and shall not display moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.
- 3). No advertisement shall be displayed for a duration of less than 10 seconds and the transition between advertisement images shall take place over a period no greater than one second.
- 4). The intensity of the illumination of the advertisement permitted by this consent shall be no greater than 300cd/sqm in the hours of darkness. In daylight hours, the advertisement display luminance shall be controlled in order to reflect ambient light conditions (to ensure it is neither too bright or too dull) and shall at all times be no greater than the recommended maximum daytime luminance values set out in Table 10.5 within the Institute of Lighting Professionals - Professional Lighting Guide 05/23 – 'The Brightness of Illuminated advertisements including digital displays' (or its equivalent in a replacement guide) in cd/m2.
- 5). No advertisement shall be displayed between the hours of 12.00 and 05.00 on any day throughout the year.