
Appeal Decision

Site visit made on 9 May 2017

by Darren Hendley BA(Hons) MA MRTPI

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

Decision date: 1 June 2017

Appeal Ref: APP/W4223/Z/17/3169551
140 Oldham Road, Failsworth M35 0HP

- 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 Insite Poster Properties Ltd against the decision of Oldham Metropolitan Borough Council.
 - The application Ref AD/339125/16, dated 13 September 2016, was refused by notice dated 20 December 2016.
 - The advertisement proposed is replacement of existing 48 sheet advertising display with 48 sheet LED display.
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Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The proposed advertisement would be sited on the gable end of a building, close to the signalised junction of the A62 and the A663, which are major routes between Manchester, and the M60 and Oldham. There is an advertisement display currently on the gable end of the building that would be replaced by the proposed advertisement and is of the same size. I understand from the appeal submission that the current advertisement comprises of three pre-installed rotating images, although at the time of my site visit, a single image appeared to be fixed.
 4. The positioning of the proposed advertisement would be so that it is orientated towards traffic approaching in the direction of travel from Manchester on the A62. The traffic signals are visible to traffic from a reasonable distance, although the proposed advertisement would be partly obscured at the same distance by an existing building and tree cover, when in leaf. As the traffic signals are approached however, the proposed advertisement would become in near full view, and it would be seen behind a traffic light signal at the junction. I do not consider the proposed advertisement would be appreciably set back from the highway, as it would only be approximately 4 metres from the signalised junction.
 5. The image on the proposed advertisement would have the potential to change once every 10 seconds. At times, the change of image, whether this would
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appear as an instantaneous image or a 'flash', would undoubtedly occur at, or around, the same time as the change in the traffic signals. As the image and the traffic lights would be in the same view of drivers, this would have the potential to distract drivers and impede their decision making from the traffic signal instruction, regardless of the fully signalised nature of the junction. This would raise a significant risk to all highways users, including pedestrians using the signalised crossing points at the junction.

6. The mapping data shows a number of accidents in the vicinity of the junction. Whilst there is no evidence put before me to link these to the existing advertisement, if drivers are distracted by the change in image on the proposed advertisement once every 10 seconds this has the potential to lead to further accidents. I note that accidents have occurred at the junction with Mellor Street, close to the appeal site, and from my site visit I noticed difficulties with vehicles in particular exiting Mellor Street right onto Oldham Road, just beyond the traffic lights. This highway safety issue would have the potential to be increased, if drivers approaching the traffic lights towards Oldham are distracted by the changing imagery. This would cause potential significant risk for other drivers on Oldham Road and those exiting Mellor Street, as well as pedestrians who may be crossing Mellor Street.
7. The proposed advertisement, due to its siting and frequent change of display, and as set out in paragraphs 067 and 068 of the Planning Practice Guidance – Advertisements, is in a location and is a type of advertisement which is more likely to affect public safety on the roads and which may cause danger to road users. I am not persuaded that exceeding the requirements, or compliance with Transport for London¹ and the Institute of Lighting Professionals² guidance on the time to change an image, display duration before the image changes, and lighting levels would resolve the significant risk posed to highways safety, because of the potential to distract drivers from traffic light signals. I do not consider the conditions put forward by the Appellant would resolve the risk because they would still allow for changing imagery once every 10 seconds.
8. I also do not consider that the current advertisement, if it operates with three pre-installed images, means that the principle of a more modern sequential advertisement, as far as this concerns the proposed advertisement, is acceptable. Regulation 3 of the Advertisement Regulations 2007 (Regulation 3) and paragraph 67 of the National Planning Policy Framework set out that advertisements are subject to controls of public safety, and Regulation 3 further goes on to specify that factors relevant to public safety include the safety of persons using any highway. I have determined that the proposed advertisement has potential for driver distraction and consider that it would pose an unacceptable risk to highways safety.
9. The Appellant has stated the proposed advertisement would comply with the Development Plan, although the policies that are considered of relevance are not specified. The Advertisement Regulations (2007) in any case only permit amenity and public safety to be taken into account. Whilst I have had regard to the Oldham Council - Joint Core Strategy and Development Management Policies Development Plan Document (2011) as a material consideration, it has not by itself been a decisive consideration in my determination of this appeal.

¹ Transport for London, Guidance for Digital Roadside Advertising and Proposed Best Practice, 2013.

² Institute of Lighting Professionals, The Brightness of Illuminated Advertisements, 2015.

Conclusion

10. I conclude the proposed advertisement would prejudice conditions of public safety. Accordingly, the appeal should be dismissed.

Darren Hendley

INSPECTOR