
Appeal Decision

Site visit made on 17 November 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2020

Appeal Ref: APP/W4223/Z/20/3258586

B and M Bargains, Ellen Street, Oldham OL9 6QR

- 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 Peter Kashem, CWRP Manchester Ltd against the decision of Oldham Metropolitan Borough Council.
 - The application Ref: AD/344827/20, dated 2 May 2020, was refused by notice dated 10 August 2020.
 - The advertisement proposed is the replacement of an existing internally illuminated sign with a gable mounted 1 x 48 sheet digital advertising display unit and a gable mounted 1 x 48 sheet internally illuminated sign.
-

Decision

1. The appeal is allowed and express consent is granted for the replacement of an existing internally illuminated sign with a gable mounted 1 x 48 sheet digital advertising display unit and a gable mounted 1 x 48 sheet internally illuminated sign as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the conditions in the attached schedule.

Procedural Matter

2. The description of development set out above in the banner heading and the decision paragraph is based on that stated on the application form and the Council's decision notice. It is plain from the appellant's submissions that one of the proposed advertisements would be a digital display showing images on rotation. The other proposed advertisement would display a fixed image that would relate to the occupier of the building where the signs would be mounted. There is not substantive evidence that demonstrates that both proposed advertisements would be digital displays showing images on rotation. Accordingly, I have considered the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposed advertisements on public safety.

Reasons

4. The proposed advertisements would replace an existing single large illuminated sign on the building, which is in retail use. They would face towards traffic on the southbound carriageway on the A627 Chadderton Way. This is a dual carriageway which operates at 40 miles per hour. It is a busy thoroughfare

which links Oldham town centre to the A627 (M), amongst other destinations. Further to the south is a major roundabout where Chadderton Way meets the A6048. This also provides for local access.

5. The proposed digital advertisement raises particular concern for the Council. It would be illuminated and consist of intermittent images which are capable of changing every ten seconds. The changeover between the images would, though, be controlled and there would be no moving images. Such controls over the images are inherent in the proposed design of this advertisement.
6. Moreover, it would be located some distance from the entry into the roundabout for southbound traffic. Even though it would be in sight of the drivers approaching the roundabout in longer ranging views in this direction, there would still be sufficient time for drivers to familiarise themselves with the actions they would need to take at the speeds they would be travelling at, including lane changing manoeuvres, prior to entry into the roundabout. The separation between this proposed advertisement and the roundabout would not result in a level of distraction or interest that would inhibit safe traffic movements.
7. The Council has also referred to accidents along this stretch of Chadderton Way. The proposed digital advertisement would be located along part of this road which has a generally unimpeded, if rising, alignment and where good visibility of the traffic is afforded. This includes local access off and onto this road. As the proposed digital advertisement would be either well behind drivers approaching the roundabout on the southbound carriageway, or would not be readily visible from other directions entering or leaving the roundabout, it would also be unlikely to create conditions that would lead to further accidents.
8. Assessing public safety is a matter which requires the particular consideration of a proposal and the site circumstances, and so little can be inferred from other situations and decisions. The appeal decision¹ for a free standing digital display concerned a location at the end of a slip road onto Chadderton Way where local conditions were deemed to represent a traffic hazard by that Inspector. That does not apply in the case before me because the proposed digital advertisement would not be sited in such a location.
9. The proposed fixed image advertisement that relates to the retail use would not have a discernible impact on public safety, not least given the existing sign for the same retailer. Taking into account the above, the cumulative effects of the two proposed advertisements would also not be unacceptable.
10. I conclude that the proposed advertisements would not have an unacceptable effect on public safety. In coming to this conclusion, I have taken into account paragraph 132 of the National Planning Policy Framework (Framework) which states that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
11. I have also considered Section 9 of the Framework and Policy 9 of the Council's Development Plan Document Joint Core Strategy and Development Management Policies (2011) as far as they seek to protect public safety and so

¹ Appeal Ref: APP/W4223/Z/20/3245615

are material in this case. Given that I have concluded that the proposed advertisements would not harm public safety, they would not be in conflict.

Conditions

12. In addition to the five standard conditions set out in the Regulations, I have imposed additional conditions in respect of the proposed digital advertisement to control luminance levels, the malfunction of the screen, to prevent moving images or similar and the transition between the digital images. These are in the interests of public safety.

Conclusion

13. For the reasons set out above and having regard to all matters raised, the appeal is allowed.

Darren Hendley

INSPECTOR

Schedule of Conditions

- 1) The maximum levels of illumination of the approved digital advertising display unit shall be no more than 300 c/m² during hours of darkness (dusk until dawn), and 600 c/m² during the day, in accordance with the terms of the Institution of Lighting Professionals, Professional Lighting Guide 2015 recommendations for maximum luminance (cd/m²) or its equivalent in a replacement Guide.
- 2) The luminance level of the approved digital advertising display unit shall be controlled by ambient environmental control, which would automatically adjust the brightness level of the screen to track the light level changes in the environment throughout the day to ensure that the perceived brightness of the display is maintained at a set level.
- 3) The approved digital advertising display unit shall contain at all times a feature that will turn off the screen (i.e. show a blank screen) in the event that the display experiences a malfunction or error.
- 4) No individual advertisement on the LED screen of the approved digital advertising display unit shall contain moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.
- 5) There shall be a smooth uninterrupted transition from one image to another on the approved digital advertising display unit. Transitions shall be of not less than one second between static images, and no individual advertisement shall be displayed for a duration of less than 10 seconds.