
Appeal Decision

Site Visit made on 20 August 2021

by Gareth W Thomas BSc(Hons) MSc(Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2021

Appeal Ref: APP/W4223/Z/21/3276114

1 CROMPTON WAY, SHAW, OLDHAM, OL2 8RD

- 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 ALIGHT MEDIA against the decision of Oldham Metropolitan Borough Council.
 - The application Ref ADV/346323/21, dated 15 February 2021, was refused by notice dated 21 May 2021.
 - The advertisement proposed is Replacement of a previously removed existing illuminated 48-sheet advertisement display with an illuminated 48-sheet digital advertisement display (both displays 6m x 3m).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has drawn my attention to Development Management Policy 9 of the Oldham Local Development Framework (DPD), which it considers to be relevant to this appeal. I have taken this policy into account where relevant; however, powers under Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) to control advertisements may be exercised only in the interest of amenity and public safety, taking into account (a) the provisions of the development plan, so far as they are material; and (b) any other relevant factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) reiterates this approach. In my determination of this appeal, the Council's policy has not therefore, in itself, been decisive.
3. The appellant explains that a similarly sized advertisement panel was situated in the same location for a number of years up until about 2018 and this is evident on Google street view. However, it is claimed that the removal of the advertisement does not in itself remove any rights that may be enjoyed under the deemed consent provisions of the Regulations and that this is an important material consideration in this appeal. The Council is silent on this issue but in any event, the matter of the legality in relation to the continued display of a 48-sheet advertisement of the type previously displayed at this site is not a question for this appeal and neither should the Council's silence be construed as giving weight as to any argument that the previously displayed advertisement continues to benefit from deemed consent provisions. I have therefore determined the appeal proposal on the basis of a digital advertisement display, which has different characteristics and effects than a fixed externally illuminated advertisement.

Main Issue

4. The Council raises no issue in respect of the amenity of the area and I have no reason to disagree. The main issue therefore is the effect of the advertisement display panel on public safety, with particular regard to highway safety.

Reasons

5. The appeal site comprises the flank wall of an end of terrace property on the western side of the A663 Crompton Way. The A663 is one of the links between the M62 and Rochdale to the north-east and the M60 linking Oldham and Manchester to the south. At this point, the road is a four-lane dual carriageway as it approaches the five-arm roundabout junction and contains a central reservation and barriers that prevent pedestrians from crossing other than at the designated controlled crossing points.
6. I observed during my site visit that the roundabout and roads approaching it adjacent to the appeal property were heavily trafficked. I also witnessed a steady flow of pedestrians crossing at various points, including at the controlled crossing along Crompton Way and at the designated crossing points on the roundabout.
7. The Planning Practice Guidance (PPG) explains that all advertisements are intended to attract attention but highlighting that those proposed at points where road users need to take more care are more likely to impact on public safety. Further, the PPG advises that the main types of advertisements that may cause danger to road users are those which are illuminated, which may in turn lead to confusion or be mistaken for traffic lights, particularly those that are subject to frequent changes to the display being shown. Moreover, those that have the potential to obstruct or confuse a road user or reduce the clarity or effectiveness of a traffic sign either because of their size or siting can also pose a risk to highway safety.
8. I acknowledge that these types of advertisements are becoming an increasingly common feature in urban settings in the UK and that in this area, there are a number of smaller advertisements on commercial properties, the proposed display would be far larger and have greater dominance when approaching the roundabout. The angle of the signalled junction and pedestrian crossing would mean that the proposed illuminated intermittent changing imagery with little transition time would be likely to cause distraction for traffic travelling towards the junction and for those waiting for lights to change. Those travelling along Crompton Way would also have the advertisement in their sights at fairly close quarters as they pass through the traffic-controlled junction, posing a risk to pedestrians and road users as they approach and use this busy junction.
9. The Council claim that there have been numerous injury accidents at this junction, including one fatality. This is not borne out in the evidence submitted by the appellant. However, there have been a number of incidents and I am conscious that not all accidents and near-misses are recorded. Even with the numbers actually recorded, it does not necessarily follow that the area is safe and I am concerned that the size and positioning of the proposed advertisement and its method of display has the potential to distract motorists as they approach the High Street/Crompton Way signalled junction and indeed

when approaching the roundabout when travelling through this junction, which would possibly increase the number of incidents in general. I am not convinced by the appellant's arguments that at a distance of 70-80 metres, the impact of the advertisement would not be distracting or indeed confusing.

10. I note the appellant's suggested conditions that would go some way to lessening the distracting influence of the proposed advertisement. Furthermore, I am conscious of existing advertisement displays at the petrol filling station that would assist in encouraging awareness and increase sensibilities of motorists in particular to the need to take care. However, unlike the advertisements that exist in the area, the changing display and imagery together with the prominence and visual interaction that would occur here would in my view draw the eye of drivers in an area where due highway observation and care would be necessary.
11. For the above reasons, I conclude that the advertisement would be harmful to public safety as it relates to highway safety and the safety of pedestrians.

Other Matters

12. In accordance with the Regulations, I have taken into consideration of the development plan in so far as its policies are relevant. The Council draws attention to DPD DM Policy 9, which expects that new development should be designed and built to prevent harm to the safety of road users. As I have concluded that the proposal would harm public safety, in particular for road users, the proposal would also conflict with this policy.

Conclusion

13. I have concluded that the proposed advertisement would have a deleterious effect on public safety. Therefore, for the reasons given above and having regard to all other matters raised, this appeal is dismissed.

Gareth W Thomas

INSPECTOR