



Appeal Decision

Site visit made on 24 August 2021

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 September 2021

Appeal Ref: APP/W4223/Z/21/3274783
1152 Middleton Road, Chadderton OL1 2TG

- 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 Wildstone Estates Limited against the decision of Oldham Council.
 - The application Ref ADV/346298/21 dated 8 February 2021 was refused by notice dated 31 March 2021.
 - The advertisement proposed is the upgrade of existing 48 sheet advert to support digital poster.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Regulations, National Planning Policy Framework and Planning Practice Guidance state that advertisements should be subject to control only in the interests of public safety and amenity. I have taken into account Policy 9 of the Oldham Local Development Framework Development Plan Document Joint Core Strategy and Development Management Policies November 2011 (the Core Strategy). This seeks to protect highway safety and so is material but not determinative in reaching a decision on the appeal. While Policy 5 has also been cited by the Council, this relates to sustainable transport choice and is not material in this case.
3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (Framework). Whilst I have had regard to the revised national policy as a material factor, in this instance the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by this.

Main Issue

4. The main issue in this case is the effect of the proposed advertisement on highway safety.

Reasons

5. The appeal site comprises the side elevation of a two-storey end of terrace building on Middleton Road, where an externally illuminated advert is in place. The site is opposite the junction with Mills Hill, facing a bus stop served by a separate road off the main highway. The proposal would replace the

advertisement currently at site, which the appellant states has been in place for over 10 years and benefits from deemed consent.

6. The PPG states that 'All advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. For example, at junctions...pedestrian crossings...or other places where local conditions present traffic hazards.' The PPG goes on to state that the main types of advertisements which may cause danger to road users are those that are illuminated and directly visible from the road which, because of their size or brightness, could result in glare or dazzle or distract road-users.
7. Due to its orientation, the proposal would be experienced travelling east along Middleton Road, visible when passing the junction with Mills Hill, and the entrance to and exit from the bus stop road. In this direction it would be directly behind traffic lights and beside an island where pedestrians could be expected to cross. Although the road is overall open and well-lit with a 30mph speed limit, this immediate section is a particularly complex part where drivers would need to take more care.
8. The advert, offset to the side, would divert the attention of road users from the forward highway and associated complexities. Its location, orientation and size would match the existing. However, its illuminated and changing digital display has increased potential to catch the attention of drivers and pedestrians, reducing their focus on surrounding traffic movements. Given the proximity of junctions and islands, even brief moments of such distraction would increase the risk of accidents at this location.
9. Although the appellant cites a limited accident history, it remains that the proposal could lead to an increase in collision risk at this location due to the prominence resulting from its digital display. While other adverts are present in the area at either side of the nearby bridge, their impact differs from the proposal in that they are not internally illuminated and are not located at the same, complex section of the road.
10. The appellant has suggested planning conditions which could ensure that the sequencing, luminance and nature of the images displayed would be in line with industry standard. However, given the surrounding context and road layout, I am not convinced that such measures would be sufficient to avoid the harm to highway safety identified above.
11. For the reasons given above I therefore find that the proposal would have a harmful effect on highway safety. Given that I have concluded that the proposal would harm highway safety, it conflicts with Policy 9 of the Core Strategy.

Other Matters

12. The appellant refers to research demonstrating that no correlation exists between advertising and road safety. However, no further details on this research have been submitted such that it can be afforded limited weight.
13. The appellant also refers to DCLG guidance. This has also not been provided such that it can be afforded limited weight. In any event, for the reasons outlined above the advertisement at site would be so distracting and confusing

that it would create a hazard for, or endanger, people who are taking reasonable care for their own and other's safety.

14. Guidance from Transport for London¹ has been provided. While it states that static digital advertising is likely to be acceptable in locations where static advertising exists, it also recognises adverts require careful consideration in locations where drivers are faced with increased cognitive demand, such as busy junctions. In any event, as this is not adopted policy, and due to the appeal site being outside of London, any failure of the proposal to follow this guidance would carry limited weight.
15. The Highways Technical Note produced by Axis refers to other examples of advertisements across the country. However, limited information on these adverts or their comparability to the proposal is provided. In any event, the appeal must be assessed on its own site specific circumstances and reference to other development elsewhere carries little weight.
16. The appellant highlights the agreement of the parties that the advert would not have a significant adverse effect on the visual amenity of the area. This is acknowledged but represents a lack of harm, which is a neutral matter that does not weigh in favour of the proposal.
17. The appellant's frustration with regards to the lack of advice from the Council is also acknowledged. However, this must remain a matter between the two main parties and does not affect my considerations of the planning merits and impacts of this case.

Conclusions

18. Having had regard to all matters raised, the appeal should be dismissed.

C Rafferty

INSPECTOR

¹ Transport for London (TfL) guidance for Digital Roadside Advertising and Proposed Best Practice Adopted March 2013