
Appeal Decision

Site visit made on 28 September 2021

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Appeal Ref: APP/A4710/H/21/3274193
139 Bolton Brow, Sowerby Bridge HX6 2BD

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a failure to give notice within the prescribed period of a decision on an application for express consent to display an advertisement.
 - The appeal is made by Wildstone Group against Calderdale Metropolitan Borough Council.
 - The application Ref 21/10002/ADV is dated 8 January 2021.
 - The advertisement proposed is upgrade of existing 48 sheet advert to support digital poster.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the appeal results from the Council's failure to determine the application within the prescribed period there is no formal decision. However, in its Officer Report the Council has set out what its reasons for refusal would have been.

Main Issues

3. The Regulations¹ make clear that advertisements should be subject to control only in the interests of amenity and public safety. Therefore the main issues are the effect of the proposed digital advertisement on amenity, including on nearby residents, and on public safety.

Reasons

Amenity

4. The appeal relates to the gable end of 139 Bolton Brow, a two-storey building in use as a convenience store, on the corner of Bolton Brow and Grove Street near a mini roundabout where three roads converge. The gable end faces onto Grove Street, a residential terraced road, and towards the side windowed elevation of a residential dwelling.
5. Although Bolton Brow is part of the A58 (Rochdale to Halifax) and runs through the centre of Sowerby Bridge, the appeal site is at the transition between the start/end of the commercial and retail area and the residential areas immediately adjacent to and beyond the site. Due to the incline of Bolton Brow and the small scale nearby buildings, the open countryside opposite and

¹ Town and Country Planning (Control of Advertisements) (England) Regulations 2007

beyond the appeal site is clearly visible, giving this part of Bolton Brow a spacious and verdant character, in contrast to the nearby bustle of the main high street. Hence, the character and appearance of the appeal site and the immediate vicinity in this part of Bolton Brow is predominantly residential.

6. The proposed advertisement would measure circa 6 metres x 3 metres and approximately 3.5 metres above the ground, similar in size to the existing externally illuminated paper hoarding it would replace, which is sited above the existing shop fascia sign. The LED digital display would show static images, but these would change on rotation about every 10 seconds. The brightness of the images would not exceed 300cd/m² at night. However, during the day the brightness of the images would be greater, but would vary to respond to changes in daylight levels from sunrise to dusk, and winter to summer. At all times brightness levels would accord with industry guidelines².
7. The advertisement will face towards Grove Street and will be in close proximity to the side elevation windows of the residential property on the corner near the roundabout. The vivid display and frequently changing images would be unduly intrusive to occupiers when viewed from the property and other nearby residences in Grove Street. The appellant is willing to reduce night-time illumination levels to 100cd/m², and accept a condition requiring the illumination to be switched off between the hours of midnight and 0600. However these measures would not, in my view, sufficiently mitigate against the changing images and glow during the remainder of the day and remaining hours of darkness, especially as it gets dark earlier in the evenings in the winter.
8. In addition, the brightness and changing images of the advertisement would stand out far more than any other feature in the streetscene, causing it to be visually dominant and incongruous. Even though the illumination could be decreased at night and the street lights I saw suggest the area is well lit at night, there are no other comparable illuminated advertisements in the area. With the incline of Bolton Brow, the appeal site is more elevated than the surrounding buildings exacerbating the sign's visual prominence in the street scene. Whilst the existing paper advertisement may have been in place for a number of years, the proposed digital advertisement amounts to a significant material change to what is currently displayed and the method of illumination.
9. I find the proposed digital advertisement would be overtly commercial, at odds with the relatively understated design, scale and predominantly residential character of this part of Bolton Brow. It would therefore cause harm to the visual amenity of the area and that of nearby residents. This would be contrary to the National Planning Policy Framework (the 'Framework'), which seeks to control advertisements in the interests of amenity.

Public safety

10. The Highway Authority objects as it considers the digital advertisement would be a distraction to drivers approaching the mini roundabout from both Pye Nest Road and Upper Bolton Brow, which from the road sign is part of the A58 to Halifax.

² The Institute of Lighting Professionals Guide "The Brightness of Illuminated Advertisements"

11. The Planning Practice Guidance³ emphasises that all advertisements are intended to attract attention, but proposed advertisements at points where drivers need to take more care or more likely to affect public safety. For example, at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing or other places where local conditions present traffic hazards.
12. As already mentioned, the area around the roundabout looks to be relatively well-lit and I observed a steady stream of traffic, including buses. Drivers are accustomed to rapidly processing a wide range of visual features including signage. Drivers approaching the roundabout from Pye North Road already have advanced views of the existing hoarding as they approach the junction. Whilst drivers would be slowing down, they still need to concentrate and check for traffic coming from the right (Upper Bolton Brow). However, the changing digital images and the brightness of the large advertisement would be a visual contrast and intrusion into the street scene, which is relatively devoid of other commercial signage, and would present a distraction to drivers.
13. Drivers approaching the roundabout from Upper Bolton Brow do not see the existing hoarding until they are almost at the junction. Then the hoarding comes into view, but is off to the side. There is also a pedestrian refuge, an uncontrolled pedestrian crossing, across Upper Bolton Brow in close proximity to the junction of the roundabout. I am concerned that the only large bright digital advertisement of its kind in the immediate area, with its changing displays, would be a distraction to drivers off to the side at a time when they need to look towards the roundabout and concentrate on the give-way and pedestrian crossing in this location. In hours of darkness this distraction would likely be more marked, as the advertisement would be an even more stark visual contrast and pedestrians can be harder to see.
14. Whilst additional conditions could be imposed to ensure there is no display of moving or flashing images, this would not, in my view, be sufficient mitigation against driver distraction at these junction to the roundabout. Whether the existing advertisement has been in place for a number of years without any public safety concern does not mean the proposed digital advertisement will have the same effect.
15. The appellant's submitted Vectos report is designed to inform advertising applications for converting 'poster and paste' signs to digital across the country. It is general in nature and does not offer a site-specific analysis of the digital advertisement before me. Furthermore, the examples it contains are in different towns with different road layouts and site contexts such that they are not directly comparable. In any event I must consider the individual circumstances and merits of the appeal before me.
16. I find the proposed digital advertisement, with its bright and frequently changing images and in an area devoid of much illuminated advertising, would be a distraction to drivers and hence would be a hazard to public safety. Accordingly, this would be contrary to the Framework, which seeks to control advertisements in the interests of public safety.

³ Planning Practice Guidance Paragraph: 067 reference ID: 18b-067-20140306

Other Matters

17. I acknowledge the appellant's attempts to engage with the Council to address the concerns of the Highway Authority and Environmental Health Officers, but in reaching my decision I have been concerned only with the merits of the case.
18. A digital advertisement may well result in fewer trips to the site to replace the paper posters and have a knock-on effect by reducing energy and carbon emissions. I accept that the digital advertisement could be used to display charitable campaigns or emergency messaging, and there may be implications for business rates. However, these factors are not unique to the appeal site or proposal and do not outweigh the harm I have identified to both amenity and public safety.

Conclusion

19. For the reasons above I have found the proposed digital advertisement would be harmful to amenity and would present a significant risk to public safety. For these reasons the appeal is dismissed.

K. Stephens
INSPECTOR