
Appeal Decision

Site visit made on 5 January 2022 by Hilary Senior BA (Hons) MCD MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2022

Appeal Ref: APP/W4223/Z/21/3284224

390 Manchester Road, Oldham, OL9 7PG

- 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 Jonathan Herman against the decision of Oldham Metropolitan Borough Council.
 - The application Ref ADV/346943/21, dated 23 May 2021, was refused by notice dated 30 September 2021.
 - The advertisement proposed is LED Billboard P6.7 LED with brightness levels and light sensor - (4,500 cd/sqm is a maximum luminance level).
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The Council has drawn my attention to Development Plan policies it considers relevant to this appeal, and I have taken them into account where relevant. However, powers under the Regulations¹ to control advertisements may be exercised only in the interest of amenity and public safety, taking account of any material factors. The Framework and the Planning Practice Guidance (PPG) reiterate this approach.

Main Issue

4. The Council has no objection to the proposal on the grounds of visual or aural amenity. From the evidence before me, and from my observations, I have no reason to disagree with the Council on these matters.
5. Therefore, the main issue is the effect of the advertisement on public safety with particular regard to the safety of highway users.

Reasons for the Recommendation

6. The PPG in its section on advertisements states that all advertisements are intended to attract attention, with those proposed at points where drivers need to take more care more likely to affect public safety. Furthermore, it advises

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

that the main types of advertisement which may cause danger to road users are those which are illuminated which could be mistaken for, or confused with, traffic lights and those subject to frequent changes of the display. Moreover, those which, because of their size or siting, would obstruct or confuse a road-user's view, or reduce the clarity or effectiveness of a traffic sign or signal could also pose a risk to highway safety.

7. The proposed advertisement would replace an existing advertisement hoarding with a digital display screen. It would be visible to drivers on Manchester Road approaching the junction with Hardman St, Chapel Rd and Chamber Rd heading towards Oldham. Although the new advertisement would be unlikely to be confused with the traffic lights, it would be located in close proximity to them and there would be a high probability that a driver's attention would be diverted by the illuminance and changing imagery of the advertisement at a point in the road where they would need to be focussing on traffic signals and road conditions, including pedestrians crossing and which lane to be in to turn right. Such a loss of concentration on the highway conditions, even momentarily would be likely to result in harm to highway safety to both pedestrians crossing over Manchester Road and to vehicles approaching the junction along this road.
8. I acknowledge that the existing advertisement has been in place for a considerable number of years, however its static display is distinctly different to the proposal before me.
9. I note the appeal decision for digital advertisement on Manchester Road although as I do not have all the details before me, including the plans I cannot be certain that the circumstances are directly comparable to this case. In any event, I have determined this appeal on its own merits based on the site-specific circumstances of the case.
10. The suggested conditions to control the display and level of illuminance are noted, but they would not mitigate the identified harm. Accordingly, I conclude that the proposed advertisement would result in unacceptable harm to public safety with particular regard to the safety of highway users.

Conclusion and Recommendation

11. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis I agree that the appeal should be dismissed.

RC Kirby

INSPECTOR