



Appeal Decision

Site visit made on 1 March 2022

by Paul Singleton BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2022

Appeal Ref: APP/Z2315/Z/21/3289770

9239 ACCRINGTON ROAD, BURNLEY, BB11 5AA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by North West Plumbing & Electrical Ltd against the decision of Burnley Borough Council.
 - The application Ref AVD/2021/0653, dated 19 October 2021, was refused by notice dated 17 December 2021.
 - The development proposed is the erection and display of a freestanding 48-sheet sized digital LED advertising unit.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on the amenity of the site and its surroundings and on public safety.

Reasons

Amenity

3. The appeal site is not within any designated area nor near to any building or feature of historic, architectural, cultural or other special interest. It is located at a major intersection of the A679 Accrington Road and A646 Rosegrove Lane/Rossendale Road which serve as distributor roads around the northern and western edges of Burnley. The area immediately to the south east of the junction is predominantly residential but that to the north of Accrington Road is dominated by industrial and commercial uses. Rosegrove Lane is the principal link between the town centre and an extensive area of business and industrial uses to the north of the M65.
4. On approaching the junction from the east, I observed a wide variety of business and other signage including large and illuminated display signs, for example at the car dealership on the north side of the road. The presence of large buildings and major highways gives the area a character which Planning Practice Guidance (PPG) identifies as likely to be a more suitable location for large poster size advertisements.¹ Although the proposed unit might be the first LED display in the locality it would not form an alien or incongruous

¹ PPG paragraph 079

feature given the nature of the road and the existing signage along that corridor.

5. The unit would be erected on private land where it would project above an existing boundary fence. It would be seen against the line of trees that runs along the boundary of the adjacent railway line and would not break the skyline. It would be physically separated from the appellant's building by the access to that site's car park and would be a freestanding structure. The adjacent building is a substantial two-storey property with long elevations to Accrington Road and Rosegrove Lane. The proposed panel would be dwarfed by that building and would not be out of scale in that immediate context.
6. The LED display would be angled towards Accrington Road as it approaches the road junction from the east and would be screened in many other potential views by the appellant's building. The LED panel would be visible from the front windows of a small number of dwellings on the south side of Accrington Road from a distance of around 50 metres. Those views would be across a busy main road junction, with a constant flow of traffic and a number of traffic signals and street lights in the foreground. Given the distances involved and the nature of the road junction, I consider that there would be a minimal effect on the outlook from those residential properties. Overall, I find that the proposal would not have a significant adverse effect on the amenity of the site and locality.

Public Safety

7. There would be no moving or flashing images and there would be a smooth transition between static images which would change approximately every 10 seconds. The panel would incorporate a mechanism to freeze the display or switch off altogether in the event of a malfunction. Lighting levels would be in accordance with established industry standards but, because of its size, the LED unit would represent a significant new source of light emission at the road junction.
8. The junction is a four arm, signal controlled junction incorporating pedestrian crossing facilities and refuges on all four arms. All of the roads that intersect at the junction are urban roads subject to a 30mph speed limit. PPG notes that advertisements are intended to attract attention but that those sited at points where drivers need to take greater care may be more likely to affect public safety. Although this is a signal controlled junction in an urban area the Highway Authority's evidence that there have been 6 personal injury accidents in the past 5 years suggests that this junction is one such point. The proposal needs to be considered in that context.
9. The potential risk to public safety arises only in relation to the possible effect on drivers of vehicles approaching the junction on Accrington Road from the west and on Rossendale Road from the south. On the other approaches, the sign would either not be visible or would be sited such that the display would not be seen from that direction.
10. On Accrington Road, the approach to the junction is relatively straight and the view available to drivers is dominated by the large elevation to the appellant's building. This fills the centre of that view and forms the background against which the traffic signals are seen. The proposed unit would appear in the right hand portion of that view. On no part of the approach would the display

appear behind, directly alongside or particularly close to any of the traffic signal heads on which drivers need to focus their attention. Hence, there would be minimal risk that the unit would obscure the traffic signals or confuse drivers as to what signals are being displayed.

11. There are two lanes on the longer approach with vehicles wishing to turn right into Rosegrove Lane able to enter a dedicated right turn lane as they get closer to the junction stop line. At this point, all of the approach lanes bend to the left (the south) to provide a better horizontal alignment with that part of the A679 Accrington Road which joins the junction from the west. On close approach to the stop line vehicles are facing the oncoming traffic from this arm of the junction. Given this geometry, and the fact that the advertisement panel would be angled towards them, the LED display would be in the eyeline of drivers as they draw near to the bend in the approach lanes. Drivers turning left or going straight on in the inside lane would be aware of the display for only a short period as they follow the bend to the south.
12. For drivers going straight on in the outside lane or turning right, the display would remain in their view for longer. It would be more likely to distract the attention of these drivers both from the signals themselves and from other traffic around them. Such a distraction would increase the risk of rear end collisions when the signals change to red or when, as I observed on my site visit, there is a tail back of vehicles in the outside lane waiting to enter the relatively short right turn lane. Drivers wishing to turn right could possibly have their attention distracted when they need to turn across the path of vehicles coming straight through the junction from the west. The location of the access to the appellant's car park provides an added risk. If drivers of vehicles turning right are distracted by the LED display, there is a risk that they might not immediately notice the slowing down of a vehicle in front that is turning into the car park. This would give rise to an increased risk of collisions.
13. As it approaches the junction from the south, Rossendale Road is orientated such that drivers are looking in a north westerly direction towards the Accrington Road elevation of the appellant's building and the proposed LED display would not be seen. On closer approach, as the road bends to the right, the display panel would come into view. Because it would be angled to face south east from behind the building line, drivers would have an oblique rather than a direct view of the unit. Due to the alignment of the approach lanes, the unit would become hidden behind the building as drivers turning left or going straight on get closer to the stop line.
14. Although they may not have a clear view of the image being displayed, drivers waiting to turn right are likely to be aware of light emitting from the panel for a longer period as they approach and move through the junction. The risk would not be as great as for right turners approaching from the east. There would, however, be a residual risk of drivers being distracted from the oncoming traffic entering the junction from Rosegrove Lane. The unit would not be sited behind any of the traffic signal heads but would appear slightly above and to the right of the signal that controls the right turn movements. Although it would be subject to industry standard controls, the juxtaposition of a regularly changing LED display and the signal head could give rise to a risk of distraction for drivers when making a right turn manoeuvre.

15. In view of the accident record at the junction, these concerns are sufficient for me to conclude that the proposal would give rise to an unacceptable risk to public safety in this case. Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to advertisement appeals. However, I have taken account of Policy TC8 of the Burnley Local Plan and find that the proposal would not be consistent with part (g) of that policy with regard to its effect on public safety.

Other Matters

16. I note the appellant's reference to the potential economic benefits of the proposal and the contribution that it might make to sustainable development. However, the Control of Advertisement Regulations indicate that advertisements should be subject to control only in the interests of amenity and public safety and I have reached my decision on this basis.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

Paul Singleton

INSPECTOR