



Appeal Decision

Site visit made on 20 March 2023

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/P4225/Z/23/3315250

Land at Manchester Street, Heywood OL10 1PS

- 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 Securities Limited against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 22/01323/ADV, dated 12 September 2022, was refused by notice dated 14 December 2022.
 - The advertisement proposed is removal of existing paper and paste billboard and replacement with one digital billboard.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Regulations, the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) all make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. The parties have drawn my attention to policies of the Rochdale Core Strategy (CS), adopted October 2016 and the Rochdale Borough Unitary Development Plan, adopted June 2006, that they consider are relevant to the appeal. This includes the Council identifying in the decision notice that they consider that the proposal fails to accord with Policies P3 and DM1 of the CS. I have taken the policies into account as material considerations, in so far as they are relevant to amenity and public safety. The Council's reason for refusal relates specifically to matters of amenity.

Main Issue

3. The main issue is the effect on amenity.

Reasons

4. The appeal site is located on land close to the junction of Manchester Street (A6046) with Hardfield Street. It is adjacent to commercial premises and forecourts and sits behind pedestrian footways that are separated by a grass verge. The site currently has an externally illuminated 48-sheet display which based on the evidence before me has been in place for over 10 years and benefits from deemed consent. The existing billboard has an angled position towards the viewpoint of vehicles and passers-by approaching in a southerly direction along Manchester Street and using the junction with Hardfield Street. It is also visible from residential flats known as The Gateway on the opposite side of Manchester Street and end terraced houses facing Smith Street beyond.

5. The proposed LED digital advertisement display would have similar proportions, positioning, and height above ground level as the existing advertisement billboard it would replace. As such the size, scale and siting of the proposed advertisement display of itself would not result in additional harm to the character and appearance of the area when compared with the existing billboard or in terms of visual clutter. The internally illuminated nature of the proposal with changing of advertisements displayed would differ from the existing externally illuminated static advertisement billboard. Nonetheless, its positioning against a backdrop of commercial buildings and fencing with a variety of signage nearby within the surroundings of Manchester Street would ensure that it would not appear unduly dominant or out of place.
6. Notwithstanding the above, the proposed advertisement would be particularly visible from windows serving habitable rooms in the flats on the opposite side of Manchester Street. The visual relationship would not be direct for most windows in the four-storey building. However, given the minimum separation distances of only around 30m, the respective angles of viewpoint of the LED digital advertisement display would not be sufficiently oblique to prevent an unacceptable relationship in terms of visual disturbance for residential occupiers of the flats. In that regard, the presence of existing street lighting nearby would not sufficiently mitigate nor offset the visual impact arising from the combination of internal illumination and changes of display. The visual disturbance to residents arising from the LED digital advertisement display, therefore, would have a significant adverse impact on the living conditions of occupiers of neighbouring properties in terms of their visual amenity.
7. I have taken into account that in addition to the standard conditions, the appellant has expressed a willingness to accept a condition to restrict the level of illumination to thresholds contained within the Institute of Lighting Professionals guidance document PLG05 – The Brightness of Illuminated Advertisements (or any subsequent amendment/replacement to this guidance) with controls by light sensor. Other conditions are suggested in terms of static images to be displayed only (no moving or flashing images); changes between adverts to take place instantly with no sequencing, fading, swiping or merging of images; and advertisements to change no more frequently than once every ten seconds. I have also considered a condition requested by the Council that the display should be switched off between the hours of 23:00 and 05:00. The latter measure would prevent harm during periods of night-time when most residents would be seeking to sleep. However, the controls over the level of the LED illumination, type and frequency of display would not otherwise overcome the harmful effect arising from the changes in static advertisements displayed at other times. The combination of internal illumination and regular changes of static images and colours would still be unacceptably visually intrusive during the other periods of the day, including when blinds and/or curtains are less likely to be drawn during daylight hours. As such I find that the proposal could not be made acceptable by use of conditions.
8. The appellant has drawn my attention to LED digital advertisement displays permitted by the Council elsewhere in Heywood at 19-21 Bamford Road (Ref: 20/00395/ADV) and on either side of Nos. 14-18 Rochdale Road East (Ref: 21/00930/ADV). Notwithstanding the apparent similarities with the design of the proposal before me, I observed that the siting of the existing LED digital advertisement displays, surrounding context and their relationship with residential properties are different and therefore, do not replicate nor justify

the harm that I have identified. LED illuminated digital advertisement displays are an increasingly common feature elsewhere in the country, but such matters do not override the necessity to assess a proposal on its individual merits based on its specific locational circumstances.

9. Having regard to all of the above, I conclude that the proposed advertisement would harm amenity, due to the unacceptable impact on nearby residents arising from visual intrusion. Whilst the development plan policies are not determinative and are not specific to advertisements, the proposal conflicts with the aims of Policy DM1 of the CS insofar as relevant to amenity considerations and also the Framework in that respect. For the avoidance of doubt, I have found no specific conflict with Policy P3 of the CS.

Other Matters

10. The position of the advertisement display, although relatively close to Manchester Street a heavily trafficked highway, would not obstruct or impair sightlines when travelling in either direction or when entering or exiting the junction with Hardfield Street. It would be viewed by vehicles travelling along Manchester Street close to the junctions with Hardfield Street and Rochdale Lane, and when passing a marked bus stop layby at the front of The Gateway, which are circumstances where drivers would need to take care to avoid risks of collisions and accidents with other vehicles and pedestrians. However, controls in terms of levels of illumination; prevention of moving images, special effects and those resembling road signs or traffic signals; frequency of changes of display (not less than every ten seconds and instantaneous changes), and a safety feature that will turn the screen off if a malfunction occurs, could be secured by condition if the appeal were allowed. I am satisfied that those measures would prevent undue distraction to passing motorists which would minimise the risk of accidents and ensure no harm to public safety. Nonetheless, the absence of harm in that respect is a neutral factor which does not justify the harm otherwise identified in terms of amenity.
11. The appellant has identified social, economic and environmental benefits of the proposed advertisement including the display of charitable campaigns, public art and emergency information, a reduction in emissions, waste and the overall number of displays, the use of sustainable energy, a reduction in vehicle trips, an increase in business rates and an uplift in rent. Whilst those benefits may arise from the proposed advertisement and are typical of similar displays elsewhere, relevant considerations under the Regulations are limited to the impact on issues of amenity and public safety. As previously set out I have found that the proposal is harmful and therefore, unacceptable in relation to matters of amenity and as such it follows that the appeal should not succeed.
12. The appellant has raised concerns in terms of the approach of the Council at the application stage. However, such matters are not influential on the outcome of the appeal as the proposal is necessarily considered on its merits.

Conclusion

13. For the reasons given above, I conclude that the proposed advertisement would harm amenity and therefore, the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR