



Appeal Decision

Site visit made on 4 July 2024

by K Mansell BA (Hons) MPhil TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2024

Appeal Ref: APP/W4223/Z/24/3336325

Alexandra Centre Retail Park, Park Road, Oldham OL4 1SA

- 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 Wildstone Estates Limited against the decision of Oldham Council.
 - The application Ref is ADV/351425/23.
 - The advertisement proposed is installation of one 48 sheet advert digital poster.
-

Decision

1. The appeal is allowed and express consent is granted for the display of one 48 sheet advert digital poster at Alexandra Retail Park, Park Road, Oldham OL4 1SA in accordance with the terms of the application, Ref ADV/351425/23, dated 20 July 2023. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in Schedule 2 of the 2007 Regulations and the additional conditions set out in the attached schedule.

Procedural Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) on 20 December 2023. However, the issues most relevant to this appeal remain unaffected by the revisions. I am therefore satisfied that there is no requirement to seek further submissions on it and no party has been prejudiced by my having regard to it.
3. The Regulations¹ and the Framework state that advertisements should be subject to control only in the interests of amenity and public safety. The effect of the proposal on amenity is not a matter raised as a concern by the Council, and from the evidence before me and my observations on site, I have no reason to disagree. Furthermore, in its decision notice, the Council identify that the proposal fails to accord with Development Management Policy 9 of the Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies (2011) (LDF). I have taken this policy into account as a material consideration in so far as it is relevant to public safety.

Main Issue

4. The main issue in this appeal is the effect of the advertisement on public safety.

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

Reasons

5. The appeal site sits within a broad grassed verge at the entrance to the Alexandra Retail Park at its junction with Park Road, a local distributor road that connects the surrounding area to Oldham Town Centre to the north. Opposite the site, residential properties front the highway, but the mix of surrounding land uses gives the area a busy urban character. The grass verge is enclosed to the rear by a brick wall and fencing, onto and in front of which there is some modestly sized non-illuminated advertisements. The appeal scheme would introduce a digital poster display positioned against the brick wall and broadly facing north-westward. It would be equivalent in size to a 48-sheet hoarding.
6. Park Road is broadly a standard two-way single carriageway. Its junction with the Retail Park is signal controlled. Closest to the appeal site is a dedicated filter lane for vehicles turning left from the Retail Park onto Park Road. Beyond that is a two-way carriageway for cars to enter the Retail Park by making a right turn from Park Road and to exit onto Park Road by turning right. A small central pedestrian refuge sat between two bollards separates these lanes. For vehicles entering the retail park from the south-west, there is a designated left-turn lane along Park Road. There are dedicated pedestrian crossing points across the Retail Park access road arm and across Park Road in the centre of the junction.
7. The Planning Practice Guidance (Advertisements) (the PPG) recognises that all advertisements are intended to attract attention, but those at points where drivers need to take more care are more likely to affect public safety². The PPG goes on to identify types of advertisement which may cause danger to road users. It includes 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. It also refers to internally illuminated signs, including those utilising LED technology where (i) the means of illumination is directly visible from any part of the road; (ii) where their colour, could be mistaken for, or confused with, traffic lights or any other authorised signals; (iii), where their size or brightness could result in glare and dazzle, or distract road-users and (iv) which are subject to frequent changes of the display³.
8. From my observations on site, as a result of the siting and orientation of the sign, the proposed advertisement would be directly visible only to road users travelling south eastbound along Park Road, either turning left into the Retail Park via the filter lane or straight on beyond the junction. The advertisement would be prominent in this direction of travel. On approach to the junction there would be a degree of overlap between the advertisement and the nearside signal for those continuing ahead on Park Road, and the offside signals for those turning left into the Retail Park. However, from the evidence before me, I am satisfied that the second alternative signal in each case would remain unobstructed. Moreover, in this direction, the highway is straight so the advertisement would be perceptible to drivers some distance before they would arrive at the stop line. These factors should ensure that even if road users were to view or glimpse the display and taking into account the existing non-illuminated adverts at the site, they would have sufficient time to assimilate its presence, so they would not need to divert their focus from the road and the prevailing traffic conditions.

² Paragraph: 067 Reference ID: 18b-067-20140306

³ Paragraph 068 Reference ID: 18b-068-20140306

9. The advertisement would display intermittent static images changing every 10 seconds. Even if road users approaching the junction were to observe more than one image, or transition between images, from the point at which they would first glimpse the advertisement to their arrival at the sign on the approach to and within close proximity to the signalised junction, from my observations on site, it is not a particularly complex section of highway. For those travelling south eastbound and turning left into the Retail Park, there is a dedicated lane. If the signals are green, drivers may have to give way to vehicles turning right into the retail centre from Park Lane, but drivers on this north-eastbound approach would not have a direct view of the advertisement. It would also be in a set-back position from the nearest road edge. Furthermore, for road users travelling beyond the Retail Park and continuing their journey on Park Road, the approach is straightforward. It is a well-lit highway with a 30mph speed limit and good forwards visibility. With the use of appropriate conditions, I am therefore not persuaded that the advertisement would confuse or distract road users to the extent that it would result in harm to highway safety.
10. I am mindful of the pedestrian crossing facilities at the junction. There are no specific signal controls for them, but dropped kerbs on Park Road and each arm of the Retail Park access indicate where pedestrians should cross during gaps in stationary traffic. From my observations on site, these crossing points are readily identifiable. Moreover, the road junction is a reasonably conventional signal-controlled access where no particularly heightened level of concentration on the part of drivers or pedestrians would be required on the approach to and in the vicinity of the proposed display.
11. Furthermore, evidence provided by the appellant⁴ indicates that of the nine accidents that have occurred within the vicinity of the appeal site in the most recent 5-year period, only three involved vehicles moving in a south eastbound direction where the advertisement would be visible. Of these, one occurred at the junction of the Retail Park and involved a vehicle in a collision with another turning right into the shopping centre. The other two accidents involved pedestrians crossing the road to the north of the junction, one being late at night and the other a result of a pedestrian stepping into the road whilst looking at a mobile phone. I consider that there is nothing to be drawn from these recorded incidents to suggest that the proposed advertisement would be sited in a particularly hazardous location, or where it would be likely to materially harm highway safety nor increase the risk of accidents.
12. In light of the evidence before me, I conclude that the proposal would not detract from public safety. I have taken into account the Framework and Policy 9 of the LDF, which, in so far as it is relevant to the consideration of an advertisement appeal, requires proposals to have regard to the safety of road users and so is material in this case. Given that I have concluded that the proposal would not harm public safety, it does not conflict with this policy or guidance.

Other Matters

13. I recognise that the appellant sought to actively engage with the Council in the course of the advertisement application. However, in reaching my decision I must be concerned only with the merits of the case before me.

⁴ Accident data provided by Transport for Greater Manchester - 1st November 2018 to 31st October 2023

14. I have also been referred to the environmental, social and economic benefits that digital advertisements may bring. Whilst these could be considered to be factors in favour of the proposal, they have not been determinative.

Conditions

15. In addition to the 5 standard conditions set out in the Regulations, the appellant has suggested a number of additional conditions, which I have assessed in light of guidance found in the PPG. Where necessary, the wording has been amended for clarity and precision. In the interests of public safety, I have imposed conditions controlling the display of advertisements, the length of display, illumination and sequencing, as well as requiring a blank or black screen in the event of any malfunction. A condition requiring the development to be carried out in accordance with the approved plans is not necessary as this decision grants express consent, and not planning permission.

Conclusion

16. For the reasons set out above, I conclude that the advertisement would not be harmful to the interests of public safety. Whilst the development plan policy is not determinative, I find that the proposal would not conflict with Policy 9 of the LDF insofar as it is relevant to public safety considerations. Therefore, the appeal should be allowed.

K Mansell

INSPECTOR

Schedule of Conditions

- 1) No individual advertisements displayed on the digital poster shall contain moving images, animation, video or full motion images or any images that resemble road traffic signs, traffic lights or traffic matrix signs.
- 2) No individual advertisements shall be displayed for a duration of less than 10 seconds.
- 3) The maximum luminance level of the advertisements displayed on the panels shall not exceed 300cd/m² during non-daylight hours.
- 4) The display panel shall be fitted with a light sensor, designed to adjust the brightness to reflect ambient light levels in daylight hours, which shall remain operational for the lifetime of the advertisement.
- 5) The interval between successive advertisements shall be no greater than 1 second and the complete display shall change without effect.
- 6) A mechanism shall be in place so that if the installation breaks down or the advertisement is not in use, it defaults to a blank or black screen.