

Town and Country Planning Act 1990

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

Advertisement Appeal

Appellant's Statement

Appeal by JCDecaux UK Limited (JCD) against the refusal of advertisement consent for: The removal of an existing display followed by the installation of an internally illuminated advertisement display at an established advertising site on land between 317 and 325 Oldham Road Manchester M40 8ED

JCD Ref: A02388

LPA Ref: 138439/AOH/2023

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1.0 Introduction

- 1.1 This appeal is submitted by JCDecaux (the appellant) against the decision of Manchester City Council (the LPA) to refuse advertisement consent to upgrade of an existing illuminated, sequential advertising unit located on the north side of Oldham Road, situated between No's 317 and 325, with an advertisement of the same size and position using LED technology.
- 1.2 The proposed display is an advertisement for the purpose of the Town and Country (Control of Advertisements) England Regulations 2007 ("the 2007 Regulations") and the application was submitted pursuant to regulation 9 of the Regulations and via the Planning Portal.
- 1.3 The application was submitted on the 30th October 2023 and subsequently validated and formally registered under LPA reference 138439/AOH/2023.
- 1.4 The application documents included plans and particulars of the structure and the advertisement displays together with images of the appeal site surroundings and elevation drawings. An assessment of the site context and the local area is contained within the application documentation and officer report. The application was refused by delegated decision and the notice issued on the 8th of January 2024. A copy of the decision notice is attached to the appeal documents.
- 1.5 In light of the Council's decision and the requirements of Regulation 3 of the 2007 Regulations, the relevant considerations in this case are confined to the likely impact of the change in the advertisement from the existing printed illuminated displays, to the proposed LED advertisements on the visual amenity of the area. The proposed change is found not to have any impact upon public safety.
- 1.6 This appeal is to be dealt with by way of the written representation procedure therefore this statement sets out the full details of the appellant's case.

2.0 Background

- 2.1 The appeal location is a long-established advertised site on the north side of Oldham Road situated on a plot of land owned by the appellant situated between 317 and 325 Oldham Road. The appellant has operated a roadside advertising display at this site for over 10 years in the form of an illuminated, sequential landscape display panel measuring 6.4m wide by 3.4m high elevated above the carriageway by approximately 3m. This size of advertisement display is often referred to as a “48 Sheet” panel. The advertising use of the land accords with the provisions of the 2007 Regulations and benefits from *deemed* advertisement consent under class 13 of Part 1 Schedule 3. Pursuant to the deemed consent, the physical structure of the advertising unit is also permitted under s222 of the 1990 Act.
- 2.2 The presence of the existing advertising structure and the existence of a deemed consent at the appeal site are important considerations in this case and the starting point for any assessment of alteration or change. The existing advertisement site on the north side of Oldham Road (A62) faces the eastbound traffic from an elevated position behind a wooden enclosure that screens the supporting structure. The site is separated from the residential properties 50m to the south on Droitwich Road by a dual carriageway containing a central reservation with ~10m tall, mature trees that provide screens of any views towards the site from the dwellings.
- 2.3 Directly northeast of the application site lies a recently completed residential redevelopment comprising a number of apartments within the corner plot of 325 Oldham Road that does not contain any windows facing the proposal site. Further north along Oldham Road there are several vacant greenfield plots. The first of these, located 45m north of the appeal site, is occupied solely by a free-standing illuminated advertisement billboard of similar size and form to the display that was approved following a successful appeal in December 2015 (110389/AOH/2015/N1).
- 2.4 Oldham Road serves as a route for vehicular access to and from Manchester’s city centre from the satellite town of Oldham, located in the northwest of Greater Manchester. This section of Oldham Road is bounded to the north by the railway line providing access to Manchester Victoria Train Station.

- 2.5 The building immediately south of 317 Oldham Road appears to be in a state of complete disrepair, with only the outer shell remaining. Satellite images indicate that this area is now being used to store vehicles. The adjacent garage utilizes the derelict plots of land to store cars in various states. The plots further south on Oldham Road are of poor quality and have suffered from years of negligence and lack of maintenance. Approximately 105m south of the application site on the north side of Oldham Road, there are 4 advertisement billboards, 2 of which are digitally illuminated and oriented in the direction of oncoming traffic.
- 2.6 Despite the area's current state of disrepair, the appellant's acknowledgment of its intrinsic value and potential as an advertising site underscores their commitment to revitalising the immediate area. Their willingness to modernise the site aligns with concurrent developments to the north, indicating a concerted effort to promote commercial vibrancy in the area. The application site is not situated within any Article 2(3) designated land or in the vicinity of any listed assets.
- 2.7 The existing advertised structure has long been a part of this street view and urbanised context. The advertisements displayed on the structure are static printed images that are illuminated from behind and alternate every ten seconds through mechanical motors. The proposal will see the replacement of the mechanical device with an LED display alternative. The structural elements of the existing display will not change nor will the orientation or position of the unit. The replacement screens will continue to show static images that change every ten seconds, and the light levels will be controlled to meet the recommendations of the Institute of Lighting Professionals (ILP). This is contrary to the point raised in the Officers Delegated Report* that the nature of the display could be considered to create 'a movement to the advertisement', with the proposal aligning with the recommendations set out for all roadside advertising.
- 2.8 The proposal, for which advertisement consent is applied for, essentially concerns the change in technology alone. The current and proposed manner of use will not change nor how passers-by will experience this roadside display. The rationale for changing the technology, which is now the preferred options for all roadside advertising, is driven from a sustainability as well as an economic reason. The existing advertisements automatically rotate every ten seconds on a continuous loop; however, they need to be manually replaced with new advertisements every two weeks, the typical posting cycle common to all outdoor

advertising displays. Once the advertisements goes live it is displayed throughout the two week period regardless of the time of day. The move to LED screens means that the advertisements no longer need to be printed, replacement and recycled but are shown via a secure ISDN link. The technology also allows an advertiser to show their images at specific times in a day to target consumers of their products with the level of precision that has hitherto been impossible.

- 2.9 The change in technology thereby reduces the number of planned trips to a site such as Oldham Road from 28 times a year to just two, in order to clean the face of the screen. The use of LED also represents a sustainable form of advertising by eliminating the need to produce, replace and recycle the printed images. The replacement LED units are also more efficient and advanced in the method of controlling how and when images are shown, and more adaptive to ambient lighting conditions via an inbuilt light sensor calibrated to the ILP recommended levels. The screen, as will all the appellant's LED displays, are switched off between the hours of 24:00 and 06:00. These measures can and are often applied as controlling measures through conditions of consent.
- 2.10 Despite these measures and evident improvements in the operation of the advertisements and in the Council's ability to exercise control over that use, the proposal was not accepted by the Council as able to overcome its primary objection to the scheme which favoured the maintenance of the status quo. As stated earlier, the site and advertisements benefit from *deemed* consent under the provisions of the 2007 Regulations being advertisements displayed on a site which has been used continually for the preceding 10 years for the display of advertisements without express consent. This proposal is concerned principally with the change in technology and through the application this will allow the Council to impose conditions over the manner of use and hours of display.
- 2.11 The appellant considers that the proposal is an appropriate and inevitable update to an existing advertising site which, contrary to the Council's assertion in the decision notice, will not harm the visual amenity of the area nor offend policy aims.

3.0 The Proposed Development

- 3.1 The proposal is outlined in the application documentation, which illustrates that the size, position and orientation of the existing advertisement display structure will not change.
- 3.2 SIZE the proposed advertising area will remain the scale of the standard 48 sheet panel that displays a landscape advertisement measuring 6.2m wide by 3.1m high.
- 3.3 LIGHTING METHOD the current advertisement is a back lit display, which means the printed advertisement is illuminated from behind by strip lights that provide a bright uniform level of luminance for the entire face of the display. The proposed method uses LED modules to create the advertisement display however the light levels using this technology can be effectively controlled and restricted to within the ILP recommended levels, in this instance 300Cdm² during the hours of darkness.
- 3.4 The proposed illuminance of the proposed display will not exceed 300 Cdm² during the hours of darkness, thereby limiting the visual impact of the advertisement at night-time in accordance with Institute of Lighting Professionals (ILP), 2015 recommendations.
- 3.5 The proposed display will the same size as the existing advertisement on Oldham Road and will allow for a greater control by the LPA in terms of illumination as to ensure the development can reduce any perceived harm on the surrounding non-designated heritage assets. The advertisement does not directly face any residential occupiers and the control over lighting levels will reduce any adverse impact upon the area. It is the appellant's view that the proposed display of a reduced size would be an appropriate addition the streetscape and enhance the advertising site with its high standard of design and build quality.

- 3.6 HOURS OF USE the current advertisement is not controlled in terms of hours of use and can therefore be operated and illuminated throughout the day and nighttime. The proposed change in technology will also include a restriction on operating times to between the hours of 06:00 and 24:00.
- 3.7 METHOD OF CHANGE as referred to earlier, the use of LED technology represents as more sustainable form of roadside display. The elimination of the printing and recycling process and reduction in the trip generation to the site is an example of modern technology being used to create a more sustainable operation.
- 3.8 The current application, which is the subject of this appeal, seeks consent to remove the existing internally illuminated display and install an internally illuminated digital advertisement of the same dimensions and position. The proposed internally illuminated digital display will sit comfortably within the established advertising site on land adjacent Oldham Road, Manchester and continue to not have a detrimental effect on LPA Policy aims.
- 3.9 The structure will be situated against the backdrop of 325 Oldham Road, facing the large tree-lined canopy lining the main arterial route of Oldham Road (A62). The A road is a dominant feature in this part of Manchester and forms part of the defining character of the surrounding area.
- 3.10 The local individuality of this area of Manchester should be sustained and be supported where possible. The proposal seeks to develop an existing advertising site in an appropriate and complementary manner. The materials of the advertisement are of a high quality and will deliver design excellence which would enhance the areas distinctive character.
- 3.11 Overall, it is considered that the continuation of a landscape orientated panel with an internal lighting system, at the same size and scale would be an appropriate upgrade to the advertisement site without causing harm to visual amenity.

4.0 Policy Considerations

- 4.1 The stated reasons for refusing consent, as articulated below and in the LPA decision notice and the Policies cited therein, are based on a perceived impact upon visual amenity, impact upon public safety, and conflict with development plan policies. Local policy and guidance can be material considerations in the determination of applications and appeal relating to advertising development but only where the policy aims are applicable and related to amenity and public safety matters, the primary considerations in advertisement developments.¹ Nevertheless, the Appellant submits that policy is supportive of the appeal proposal in several respects.
- 4.2 Reason for Refusal as detailed within the Decision Notice, dated 8th January 2024:

The proposed digital hoarding sign by reason of its size, appearance, position, means of illumination and method of display, would fail to respond positively to its surroundings, creating a dominant and incongruous feature which would have an unduly harmful impact on the character of the local street-scene. This would harm visual amenity and detract from the character and quality of the adjacent buildings, including the setting of a non-designated heritage asset. Additionally, the digital hoarding would be unsuitable on a major arterial route into Manchester city centre (Oldham Road), where the city is promoting improvements and high quality design as part of the ongoing regeneration activity. The application is hereby refused, pursuant to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations), policies DM1, SP1, EN3 and EN1 of the Manchester Core Strategy, saved policies DC15 and E3.3 of the Unitary Development Plan and the NPPF

National Guidance

- 4.3 National Guidance on the control of advertisements is provided within paragraph 136 of the **National Planning Policy Framework** (NPPF), which has superseded the more comprehensive advice contained within PPG19. Whilst much of the

¹ Regulation 3 of the Town and Country Planning (Control of Advertisements)(England) Regulations 2007/783

detailed advice has been removed, the support for sustainable forms of development remains a fundamental thread throughout the guidance.

4.4 Advertising is an important part of a diverse and vibrant market economy to promote businesses, products and services. A vibrant advertising sector contributes to sustainable economic growth by encouraging consumer confidence and consumer spending, a key component of economic growth. Furthermore the use of modern technologies and recycled material in the development is consistent with the aim of sustainability through building design. The NPPF promotes the planning system as an enabling one emphasising the role of the planning system to support economic growth

4.5 In respect of advertisements, the NPPF states that:

The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

4.6 The appeal site is an existing established advertising site, not a new location, therefore the siting is pre-determined in this case and the presence of the lawful display material to the assessment. More generally, principles within the NPPF that are relevant to this proposal include the aim of securing high quality design and encouraging vitality in urban areas. In determining applications, Councils are advised to attribute weight to innovative designs which help raise the standard of design more generally. The Appellant submits that this proposal is an example of innovation through the measures to apply modern technology to reduce waste and better use of energy resources. The LED units are run entirely on green energy from renewable sources and serviced by electric vehicle.

4.7 Specific guidance relating to advertising developments and on the interpretation of the Regulations is contained within the **Communities and Local Government**

Planning Practice Guidance (“PPG”), which contains the current guidance on this subject. Section 8 of the PPG explains in greater detail the criteria for considering amenity issues in advertising proposals.

4.8 On the matter of general amenity, the PPG states that,

...in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.

This might mean that a large poster-boarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.

4.9 The use of the appeal site for advertising purposes is long established and its suitability as a location for advertising continues. Oldham Road is a busy route and predominated by the commercial uses intermittently line the road abutting the railway to the north. The area is not a sensitive one and there are no designated heritage assets close by that would be affected by this alteration to the appeal site. The decision notice mentions to presence of the non-designated asset as being negatively impacted by the proposal, however to the casual observer Oldham Road would appear as the type of commercial/industrial area. The immediate area is characteristic of that referred to in guidance where there is an expectation of seeing roadside advertising, such as those north and south of the appeal site on Oldham Road. It is therefore seen that the upgrade of the existing advertising site on Oldham Road is therefore unlikely to have a negative impact on the nearby non-designated asset, and will compliment the modern extension’s features.

Local Policy

4.10 The LPA’s decision to refuse advertisement consent refers to a detrimental impact on visual amenity and cites policies DC15 of the Unitary Development

Plan for the City of Manchester, Policies DM1, SP1, EN1 and EN3 of the Manchester Core Strategy.

Unitary Development Plan

DC15 – The saved UDP policy is most closely aligned with the assessment criteria under the 2007 Regulations. The policy provides criteria which suggests a presumption in favour of development that comply with the Regulations and does not harm the interests of amenity or public safety. In light of the character of the area and the existing extent of advertising display, the proposal will not result in any tangible harm to local visual amenity. Issues regarding the design and materials used in the advertisement, its scale and its effect on the locality are matters that have been taken fully into account and informed the development. The proposal will not result in a proliferation of signs nor would the displays be visible to any residential windows.

The area is very well lit by high level street lights and the luminance of the proposed display would be proportionate to the existing display and local environment, consistent with Institute of Lighting Professionals (ILP) 2015 advice.

Manchester Core Strategy

SP1 – This policy is not specific to large format advertising displays, rather the public realm of the City of Manchester in general. The display panel is a freestanding roadside feature with the advertisements elevated above street level within an open roadside verge. The existing advertisements are already internally illuminated sequential displays, the proposed change to LED units will not make the displays more visible in the street as to harm visual amenity. The current display structure has existed for many years without issue or complaint and are established features of the street scene. The continuation of advertising in this location should not be considered detrimental to the public realm but simply a continuation and improvement of the current position. The change of illumination methodology is not a significant change which would result in any greater

tangible effect on the public realm. The use of appropriate conditions will ensure the lighting level will remain the same. Overall, the proposal is a positive measure that would not offend the objectives of SP1.

DM1 – This policy provides a general rather than specific set of policy goals that should be achieved for development requiring planning permission, many of which are not directly relevant to this appeal, excepting the requirement for development to be of a high standard and have regard to the context and proportion within an area where development is proposed. The proposed advertising support is an architecturally designed structure and sets a high benchmark for quality across the industry. The advertisements are located with a commercial corridor and do not face any residential occupiers. It is the appellant's view that the proposal would be an appropriate alteration to the site that will not fundamentally change the nature of the use or effect on the surroundings. Overall, DM 1 will not be undermined by this development and the proposal will not be of detriment to the streetscape.

EN1 – This policy is particular to the public realm and character of each area within the City of Manchester. The local individuality of this area of Manchester should be sustained and be supported where possible. The proposal seeks to develop an existing advertising site in an appropriate and complementary manner that improves the method of display. The materials used in the advertisement display and structural form are of a high quality and will deliver design excellence without harming the area's character. The proposal is a positive response to the site's existing use and reflects a genuine desire to improve the quality of the appellants roadside estate.

EN3 – This policy relates to the protection of Listed Buildings, schedule monuments and their setting. This section emphasises the significance of heritage and conservation policies tailored to the unique public realm and

character of each area within the City of Manchester. Policy EN3 emphasises the importance of maintaining the local individuality and supporting it whenever feasible. The appeal site was designed for the sole purpose of advertisement display therefore the continuation of that activity does not harm or change the character of the building or detract from its significance.

5.0 Conclusion

- 5.1 It is the applicant's view that the advertising proposal is a continuation of an established use of land that remains an appropriate use within the site context.
- 5.2 The scale of the surrounding buildings and the general streetscape indicate the environment is one that can continue to accommodate a roadside display of the proposed size without harming local character. The upgrade in technology is seen as a progressive and positive measure and investment in the quality of the roadside estate in Manchester. The reduced hours of operation will have a beneficial effect on the area and the control over luminance level will ensure the light levels are appropriate and effectively managed.
- 5.3 The proposal will not result in harm to the locality and it remains a development that accords with the Regulations and guidance and the same policy requirements of Unitary Development Plan for the City of Manchester and of the Manchester Core Strategy.
- 5.4 The Inspector is respectfully requested to uphold this appeal and to grant express consent for the development applied for.

Suggested Conditions

- (a) No individual advertisements displayed on the LED panel shall contain moving images, animation, video or full motion images or any images that resemble road signs, traffic lights or traffic signs.
- (b) No individual advertisements shall be displayed for duration of less than 10 seconds.
- (c) Controls shall be in place to ensure smooth uninterrupted transition of images displayed on the panel.
- (d) The display panel shall be fitted with a light sensor, designed to adjust the brightness to changes in ambient light levels.
- (e) A mechanism shall be in place so that if the installation breaks down, it defaults to a black screen to avoid any flashing error messages or pixilation.
- (f) The maximum luminance level of the advertisements displayed on the panel shall not exceed 300 cd/m² during non-daylight hours / inclement weather.
- (g) The panel shall not display any advertisements between the hours of 24:00 and 06:00.