



Appeal Decision

Site visit made on 12 October 2023

by R Lawrence MRTPI, BSc (Hons), PGDip (TP)

an Inspector appointed by the Secretary of State

Decision date: 20th November 2023

Appeal Ref: APP/U2235/Z/23/3322728

Car Park Adjacent To 122 Upper Stone Street, Maidstone ME15 6HD

- 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 Estates Limited against the decision of Maidstone Borough Council.
 - The application Ref 23/500114/ADV dated 20/12/2022, was refused by notice dated 3 April 2023.
 - The advertisement proposed is upgrade of existing 48 sheet advert to support digital poster.
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Decision

1. The appeal is allowed and express consent is granted for the upgrade of 1no. existing 48 sheet advert to support digital poster, as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions in the attached schedule.

Main Issue

2. The main issues are
 - i) The effect of the advertisement on amenity, including with regard to its effect on the setting of the Grade II Listed 135-141 Upper Stone Street; and
 - ii) The effect of the advertisement on public safety.

Reasons

Amenity

3. The appeal site is adjacent to the entrance to a car dealership and is located on Upper Stone Street which is a busy thoroughfare, in a built-up urban setting. The area is of a mixed-use character, including both residential, commercial and industrial uses.
4. The proposal would replace an existing advert, which is not illuminated and is a fairly typical paper sheet poster. The size, scale and position of the proposed advertisement would be similar to existing. The change from a non-illuminated to a digital illuminated display would result in a more modern appearance. Although the scale of the advertisement would not significantly change from existing, the advertisement would be of a large size, which combined with the introduction of illumination and the use of a changing digital display, would draw additional attention to it.
5. The appeal site is in close proximity to, and would be visible from, a timber framed Grade II listed building (now subdivided) at 135-141 Upper Stone

Street. The buildings significance lies in its scale and architectural quality which reflect the former wealth and status of the street. I recognise that there could be an opportunity to restore the status and significance of the road, however, the appeal proposal would not necessarily preclude such a change.

6. There are various modern buildings and signage along the road which juxtapose with the appearance of the listed building and detract from the historic townscape. The existing advertisement is one such example of this signage, and the proposed advertisement would have a comparable effect. Although the digital nature of the proposed advertisement would result in a more modern look, the upgrade of the display would improve its overall appearance which would be beneficial. For this reason, the proposal would have no adverse effect on the setting of the listed building.
7. As there are a range of shop frontages, fascia and directional signage in the vicinity of the appeal site, the proposed advertisement would be broadly in keeping with the character of the area. The location of the site adjacent to a busy road, and in a built-up urban environment, is such that advertisements are a common feature. This is the case despite other signage in the area comprising fascia or directional signage rather than digital freestanding signage.
8. Having regard to the above, the proposal would therefore be acceptable in terms of the effect of the advertisement on amenity, including with regard to its effect on the setting of the Grade II Listed Building.
9. In accordance with the Regulations, I have taken into account the provisions of the development plan in so far as they are relevant. This includes having regard to Policies DM1, DM4 and DM18 of the Maidstone Borough Local Plan 2017. These policies, in so far as relevant, seek to ensure signage adheres to good design principles, brownfield land is maximised and that signage would not be detrimental to the character and appearance of the area.

Public Safety

10. Upper Stone Street is a busy thoroughfare in respect of both vehicular and pedestrian traffic. The advertisement would have a similar setback from the road and display to the existing advertisement. The key change would be the introduction of a digital display.
11. The Council's delegated officer report refers to likely harm resulting from the proximity of the appeal site to the Old Tovil Road junction, which has restricted visibility. However, as the road is one way, and due to the direction of traffic, the advertisement would not be visible to vehicular traffic at the junction. The distance between the proposed sign and the junction would be sufficient to avoid a public safety issue.
12. The digital nature of the advertisement, together with the relatively short duration of the advertisements, would result in an increased prominence compared with the existing sign. The changes in display have the potential to attract drivers' attention. However, given the characteristics of the road, and in particular the good visibility on this section of the road which is relatively straight, this is unlikely to amount to a harmful level of distraction.
13. Conditions are recommended to preclude the use of moving images, flashing lights or animated transitions between displays. There are also controls

recommended to minimise the luminance levels. These factors would serve to avoid the advertisement creating a harmful distraction.

14. Having regard to the above considerations, the proposal would be acceptable in terms of public safety. The proposal would therefore accord with the requirements of the National Planning Policy Framework which requires development to avoid or mitigate any significant impacts on the transport network.

Conditions

15. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. A plan numbers condition is required in the interests of certainty. A condition to require the submission of further details in respect of the illumination is required such to control light spill and in the interests of the amenities of residents as well as public safety. A condition limiting the luminance of the advertisement is necessary in the interests of amenity and public safety, this includes a requirement to turn off the advertisement during night-time hours, reflecting the close proximity of residential properties. I have reduced the hours when the illumination should be turned off as the Council's suggested hours included hours of daylight and were not justified.

Conclusion

16. For the above reasons, and taking all relevant matters into account, I conclude that the appeal should be allowed, subject to conditions.

R. Lawrence

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out and thereafter maintained in accordance with the following approved plans:
011_3207_4244 PA01 Existing Site Plan, 011-3207-4244 Proposed Site Plan and 011-3207-4244 Existing and Proposed Elevations.
- 2) The maximum level of illumination of the advertisement to which this consent relates shall not exceed 300 cd/m². The sign shall not be illuminated during the hours of 22:00 and 06:00 on any given day.
- 3) Prior to the erection of the advertisement hereby permitted a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill, shall be submitted to and approved in writing by the Local Planning Authority. The submission shall take note of and refer to the Institution of Lighting Professionals Guidance Note PLG05, The Brightness of Illuminated Advertisements (and any subsequent revisions). The scheme of lighting shall be installed, maintained and operated in accordance with the approved scheme. In addition, the proposed sign shall be fitted with a timer control system to ensure that the lighting system is switched off between the hours set out in condition 2.
- 4) The minimum display time for each advertisement shall be no less than 10 seconds.
- 5) Changes between advertisements to take place instantly with fade effect and no other sequencing, fading, swiping or merging effects.
- 6) No individual advertisement displayed shall at any time contain moving images, animation, intermittent or full motion video images, audio, directional symbols or any images that resemble road signs or traffic signals.
- 7) The advertisement display shall at all times contain a feature that will turn the display off (showing a black/blank screen) in the event of malfunction or error.