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## Appeal Decision

Site visit made on 14 May 2024

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 3<sup>rd</sup> June 2024**

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**Appeal Ref: APP/B0230/Z/23/3332497**  
**243 Dunstable Road, Luton LU4 8BW**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
  - The appeal is made by Wildstone Estates Limited against the decision of Luton Borough Council.
  - The application Ref 23/00941/ADV, dated 16 August 2023, was refused by notice dated 24 October 2023.
  - The advertisement proposed is the installation of digital advertisement hoarding to display static advertisements on rotation.
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### Decision

1. The appeal is allowed and express consent is granted for the display of a digital advertisement hoarding to display static advertisements on rotation 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 following additional conditions:
  - 1) The advertisement hereby permitted shall not be carried out other than in complete accordance with the approved plans: 20185/PA/01; 21850/PA/02; 21850PA03 and ; 21850PA04.
  - 2) The existing advertising material shall be removed from the building before the display to which this consent relates is installed.
  - 3) The illumination of the display hereby permitted shall be non-intermittent and shall not exceed a luminosity of 300cd/sqm at night (dusk till dawn) set out for Environmental Zone 4 in Table 10.4 within the Institution of Lighting Professionals - Professional Lighting Guide (PLG 05) 'Brightness of Illuminated Advertisements including Digital Displays' (or its equivalent in a replacement guide) in cd/m2.
  - 4) In daylight hours, the advertisement display luminance shall be controlled in order to reflect ambient light conditions (to ensure it is neither too bright or too dull), and shall at all times be no greater than the recommended maximum daytime luminance values set out in Table 10.5 within the Institution of Lighting Professionals – Professional Lighting Guide (PLG 05) 'Brightness of Illuminated Advertisements including Digital Displays' (or its equivalent in a replacement guide) in cd/m2.

- 5) Advertisements to change no more frequently than once every 10 seconds and changes between adverts to take place instantly with no fading, swiping or merging images.
- 6) There shall be no moving images, animation, video or full motion images displayed unless otherwise permitted by this consent.
- 7) The interval between successive advertisements shall be no greater than 1 second and the complete display shall change without effect. The display to include a mechanism to default to a blank or black screen in the event of malfunction, or if the advertisement is not in use.

### **Procedural Matters**

2. The amendments of the National Planning Policy Framework (the Framework) were published in December 2023 after the determination of the appeal application. These amendments do not alter the basis upon which this appeal has been assessed.
3. The Regulations and the Framework make it clear that advertisements should be the subject of control only in the interests of amenity and public safety. No issues of public safety have been raised by the Council.
4. Whilst the Council has referred to the development plan policies which it considers relevant to this appeal they cannot, by themselves, be decisive but they are a material consideration in the determination of this appeal.

### **Main Issue**

5. It is considered that the main issue is the effect of the proposed advertisement on amenity.

### **Reasons**

6. The appeal scheme includes the erection of a of digital advertisement hoarding to display static advertisements, which would have rotating images, on the flank wall of a 2-storey property situated within an area which possesses a commercial character and appearance. In making this assessment, it is acknowledged that on the opposite side of Dunstable Road are 2 and 3-storey buildings which possess retail uses at ground floor and predominantly residential above.
7. Currently, a vinyl style poster is hung on the property's flank wall. However, the Council has identified that any advertisement displayed on the wall does not have consent. Reference has been made by the appellant to other schemes where similar types of illuminated advertisement displays have been erected. Some of the details of these schemes have been provided but their full circumstances have not and, other than 1 of these schemes, they are not within Luton Borough. Limited weight has been given to these other schemes in the determination of this appeal
8. Within the surrounding area there is a wide variety of signage including fascia and box signs and poster displays, including those integrated with bus stops. The roads are lit with high level streetlights. The existing advertisements have been considered in assessing the appeal scheme because they form part of the

character of the area and the Framework also refers to cumulative impacts being taken into account.

9. The appeal scheme would be particularly noticeable to the drivers and passengers of vehicles travelling eastbound along Dunstable Road across the neighbouring surface car park. However, because of the surrounding area being commercial in character and appearance, and acknowledging there is other signage which contribute to this character, the appeal scheme would not cause unacceptable harm to the visual amenity of the area, including in combination with nearby advertisements. There would not be a conflict with Policies LLP25 and LLP26 of the Luton Borough Plan (LP) whereby advertisements should not adversely affect the character or appearance of a building or area.
10. As identified, there are residential flats located on the opposite side of Dunstable Road. They are set back from the footway and separated from the appeal site by the carriageway and another footway. The windows of these flats include some openings which serve habitable rooms of flats. There would be an angled outlook, of varying degrees, towards the proposed advertisement. By reason of the angled nature of the outlook, the streetlighting, the commercial character of the area and the ability to impose a condition to control the level of illuminance if this appeal succeeds, it is not judged that the amenity of the occupiers of the flats would be adversely harmed.
11. For the reasons given, it is concluded that the proposed advertisement would not be detrimental to the interests of amenity and, as material considerations, it would also not conflict with LP Policies LLP1, LLP25 and LLP26.

### **Conditions**

12. In addition to the five standard conditions, the Council and appellant have suggested several additional conditions in the event this appeal succeeds which have been assessed against the tests in the Framework and the Planning Practice Guidance. By reason of the digital nature of the display, it is necessary to control the degree of luminescence, particularly at night time, and the speed and rotating nature of the individual advertisements which would be displayed. Conditions are also necessary to ensure the advertisement is erected in accordance with the approved plans and the vinyl style poster is removed.
13. Accordingly, it is concluded that this appeal should be allowed.

*D J Barnes*

INSPECTOR