



# Appeal Decision

Site visit made on 12 July 2024

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 7 August 2024**

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**Appeal Ref: APP/C5690/H/24/3337064**

**Advertising Right Side Of 293, Stanstead Road, Catford, Lewisham, London SE23 1JB**

- 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 Group Limited against the decision of London Borough of Lewisham
  - The application Ref is DC/23/131562.
  - The development proposed is erection of new digital poster display.
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## Decision

1. The appeal is allowed and express consent is granted for erection of new digital poster display as applied for at Advertising Right Side Of 293, Stanstead Road, Catford, Lewisham, London SE23 1JB. 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 maximum permitted level of luminance of the display shall not be greater than 300 candelas per square metre above ambient light levels at any time and shall not exceed 300 candelas per square metre during twilight and night hours (dusk until dawn), in accordance with the recommendations of the Institution of Lighting Professionals.
  - 2) The advertisement hereby approved shall not be illuminated during the hours of 0000 – 0600.
  - 3) There shall be a smooth uninterrupted transition from one image to another, with no other sequencing, fading, swiping or merging effects.
  - 4) 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.
  - 5) 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.
  - 6) The minimum display time for each advertisement shall be no less than 10 seconds.

## Preliminary Matters

2. The appeal submission includes a Highways Safety Technical Note prepared by Axis (January 2024). I have considered this information taking into

consideration the principles established by the Courts in *Holborn Studios Ltd*<sup>1</sup>. The highway safety evidence provides additional detail in relation to the effect of the advertisement on the operation of the nearby speed camera, rather than any amendment to the proposal. For this reason, I consider that there would be no prejudice to any party by considering the additional information. I have therefore determined the appeal on the basis of the additional information.

3. The Regulations<sup>2</sup> and the National Planning Policy Framework (2023) state that advertisements should be subject to control only in the interests of amenity and public safety. In its decision notice, the Council identify that the proposal fails to accord with Policies D8 and T2 of the London Plan (2021), Policy 14 of Lewisham's Core Strategy (2011) and Policies 19 and 27 of Lewisham's Development Management Local Plan (2014). I have taken these policies into account as material considerations in so far as they are relevant to public safety.

### **Main Issue**

4. The main issue in the appeal is the effect of the proposal on public safety, with particular regard to the operation of an existing speed camera located opposite the site.

### **Reasons**

5. The application site is the side elevation of a three storey end of terrace dwelling located on the northern side of Stanstead Road. The property is located in a relatively busy area comprising a mix of commercial uses on this side of the road at ground floor level and residential accommodation, generally on upper floors. A 48-sheet advertisement display (6 metres wide by 3 metres high) exists on the site at present, having been allowed at appeal<sup>3</sup> in 2018. The application which is the subject of this appeal was submitted as the consent for the previously allowed advertisement has expired.
6. The submitted evidence indicates that the illumination of the existing advertisement has not always been working due to technical issues. As a result, there has been periods where it has operated as a non-illuminated advertisement. Photographs within the submitted evidence show the advertisement illuminated in the recent past and I note that the description of development for the previously allowed appeal confirms that it was to be illuminated.
7. I have assessed this proposal on the basis of the information submitted, which confirms that the new advertisement will be illuminated. The proposed display would have the same dimensions as the existing display, although it would slightly thinner. The proposed display would be capable of displaying six advertising campaigns at a time, sequencing every ten seconds. There would be no moving images and no transition effects.
8. The Council's concerns are focussed on the effect that the illuminated advertisement would have on the operation of an existing fixed speed camera located on the opposite side of the road. The suggestion being that interference from illumination would reduce its ability to detect vehicles that are speeding

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<sup>1</sup> *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

<sup>2</sup> The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

<sup>3</sup> APP/C5690/Z/18/319899

due to changing light patterns on the road. However, I have not been provided with examples or evidence of any advertisements which have had known harmful effects on the operation of speed cameras.

9. The Council has provided photographs, taken earlier this year, of light on the far side of the road from the advertisement in an area where the speed camera would operate. The photographs show that there are multiple sources of illumination within the street. From the evidence provided I cannot be certain that the source of the 'light spill' in the photograph is the advertisement.
10. Furthermore, although the advertisement has been illuminated for periods this year, I have no information before me to suggest that the existing illumination is currently impacting the operation of the speed camera. Unlike the existing advertisement, which is internally illuminated to a set level regardless of the conditions, the proposed advertisement would have sensors in place to gauge the appropriate lighting levels, ensuring that they are not overly bright. This dynamic control would be an improvement in the operation of the display, which I consider is less likely to affect the operation of the speed camera.
11. The appellant has provided a light spill diagram based upon the proposed advertisement at a 5% brightness level of 300 candela per square metre. This is the advertisement's proposed maximum nighttime brightness setting. The lightspill diagram demonstrates that illumination from the advertisement would not reach the opposite side of the road where the camera is located. The Highways Safety Technical Note concludes that the light spill from the proposed advertisement would not exceed a level that would constitute a light nuisance that could result in a detrimental impact on the operation of the speed camera.
12. The light spill diagram does not consider the colour or hue impacts from the advertisement. However, I have not been provided with substantive evidence to demonstrate that these can have a harmful effect on its operation. I have also been provided with no substantive evidence to demonstrate that the advertisement would interfere with the speed camera signal or electronics.
13. The submitted evidence includes collision data from the area surrounding the site on Stanstead Road and the area surrounding the next speed camera located on the A205 going westbound near Dulwich Common. This indicates that there has been fewer collisions in recent years near the Dulwich Common speed camera. Whilst this may be the case, the information submitted does not provide any detail to demonstrate that an illuminated advertisement would affect the operation of the speed camera. In any event, from the submitted evidence, the two locations share few similarities, with the Dulwich Common site being surrounded by green space rather than a busy urban street with ground floor commercial uses.
14. It has been suggested that drivers could use the presence of the advertisement, and associated driver distraction, as a reason to contest speeding tickets. However, the Council did not refuse consent on this basis. The Council's reason for refusal relates solely to the effect of illumination on the operation of the speed camera. I therefore have not referred to this issue further.
15. I acknowledge that speed cameras are an effective way of persuading drivers not to speed and that they are located in specific locations within which the highway authority has identified there is a risk of speeding that needs

mitigating. I also understand that the enforceability of speeding tickets is reduced in the absence of compelling photographic evidence. However, I have found that the proposal would not affect the operation of the speed camera.

16. In light of the evidence before me, I conclude that the proposal would not detract from public safety. I have taken into account the National Planning Policy Framework (2023) and Policies D8 and T2 of the London Plan (2021), Policy 14 of Lewisham's Core Strategy (2011) and Policies 19 and 27 of Lewisham's Development Management Local Plan (2014), which, in so far as they are relevant to the consideration of an advertisement appeal, require proposals to have regard to the safety of road users and so are material in this case. Given that I have concluded that the proposal would not harm public safety, it does not conflict with this policies or guidance.

### **Other Matters**

17. Concerns have been raised in relation to the advertisement's proposed moving and changing display, how this would hold drivers' attention and whether it would be a distraction to drivers, cyclists and pedestrians. The images displayed on the advertisement would be static and displayed for a minimum of 10 seconds. Drivers passing the appeal site are likely to see a maximum of one advertisement image change. Due to its size, the existing advertisement at the site is particularly prominent. I do not consider that the proposed advertisement, which would be the same size, would be any more of a distraction to drivers or pedestrians than the existing advertisement.
18. Interested parties have raised concerns that the illuminated advertisement could cause light overspill and glare to the nearest residents. The advertisement would be positioned facing away from the nearest residential property which is attached to, and is located above the height of the windows of the nearest property which it would face. I have applied a planning condition which will limit the luminance levels of the advertisement unit, which will also protect neighbouring residents from light overspill. The condition also controls the frequency of changes to the display and prevents the animation of advertisements.
19. Interested parties have voiced concerns that the proposal would add to visual clutter, is at odds with the residential setting of the area and would create a commercialised character. As the proposal would replace an existing advertisement of the same size I do not find that it would have a harmful effect on visual amenity.
20. Interested parties have raised concerns about the effect of the proposal on local wildlife and the Council's sustainability objectives. However, powers under the regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors.

### **Conditions**

21. In addition to the five standard conditions, I have considered those suggested by the appellant and Council. These seek to control the level of luminance, to require a cut out in the event of malfunction, to control the frequency of image change, and to ensure that images remain static. I agree that these are necessary to safeguard public safety and in the interests of visual amenity.

Where necessary I have adjusted the wording of these conditions for preciseness.

**Conclusion**

22. In conclusion, the proposal would not have a harmful effect on public safety. As such, and for the reasons given above, the appeal is allowed, subject to the five standard conditions and the additional conditions set out above.

*B Pattison*

INSPECTOR