

19 June 2020

Planning
Manchester City Council
P O Box 532
MANCHESTER
M60 2LA

Land at 18 Hyde Road – Proposed Advertisement Upgrade

Dear Sir/Madam,

Wildstone Planning has been instructed by Wildstone Capital to resubmit an application for advertisement consent for a site at 18 Hyde Road that has previously been granted consent for the following:

"Replacement of 1 no. 48 sheet poster display and 1 no. 96 sheet poster display with 1 no. double-sided 48 sheet internally illuminated digital display and associated logo box".

This application was originally refused by Manchester Council (LPA Ref: 122232/AOH/2018) with the decision overturned at appeal (Appeal Ref: APP/B4215/Z/19/3226463). The purpose of the resubmission is to reconsider the operational conditions placed on the display by the Inspector, as these are not considered to be viable to operate and are not necessary to protect amenity or public safety.

The two conditions this relates to read as follows:

1b) No individual advertisement shall be displayed for a duration of less than 30 seconds;

1f) The maximum luminance level of the advertisements displayed on the panel shall not exceed 150 cd/m² during non-daylight hours.

It is proposed to operate the display with a changeover of advert every ten seconds in line with a standard approach taken across the country. It is worth noting that Manchester City Council Highways did not object to the proposal on the grounds of highways safety and the appeal decision did not consider highways safety. Nevertheless, advice has been taken from a highways consultant as to whether the ten second changeover may be considered necessary in this circumstance. This assessment concludes that ten seconds is an appropriate rate of change and is provided as part of the application submission.

It is also proposed to adjust the level of illuminance slightly to take account of the high brightness of the area and bring in line with the levels of illumination found on a traditional externally illuminated display (i.e. still remaining below the standard level of illumination for a digital display). Additional information is submitted regarding the level of lighting which demonstrates that the proposal is achievable and would match the existing lighting levels.

Site Description

The application site comprises two externally illuminated poster advertisement panels situated back to back measuring 6 metres by 3 metres (known as a 48 sheet) and 12 metres by 3 metres (known as a 96 sheet). The advertisements benefit from deemed consent under Class 13(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the "Regulations"). Advertisement consent has been secured to replace both panels with a single digital 48 sheet panel (APP/B4215/Z/3226463).

The surrounding area contains a mixture of uses including commercial/industrial (located within large scale warehouse buildings) and residential units. According to the Proposals Map, the site is located within Central Manchester but does not have any site-specific designations. The closest residential windows are approximately 25m to the north west of the site, at the start of an isolated terrace within a wider industrial area.

The Grade II listed Apollo Theatre is located approximately 70 metres to the west of the site. The Apollo Theatre itself is physically and visually separated from the application site and contains a number of large format advertising panels. The site is not located within a Conservation Area.

Proposal

Advertisement consent is sought to replace the existing externally illuminated advertising at the site (1x 96 sheet and 1x48 sheet) with a single digitally illuminated 48 sheet advert.

It is proposed to amend conditions 1a and 1f of appeal decision APP/B4215/Z/19/3226463 to allow for more frequent changeover of adverts in line with a standard approach adopted across the country, and to apply a limit over luminance that is in line with the existing level of luminance and within the ILP guidelines. The existing consent limits the level of illumination to 150cd/m² at night and the changeover of adverts to once every 30 seconds, which would be out of step with the way that other similar adverts are sold (i.e. every 10 seconds). This has an impact on the viability of the site and is not considered to be a necessary measure to protect either amenity or public safety. As such the condition does not pass the tests set out in National Planning Policy Guidance and should have been challenged following receipt of the decision. As the 8 week period to change the conditions has passed, it is necessary to submit a new application for consideration. None of the other conditions applied by the planning inspectorate are contested and the application is identical to the previously submitted proposal in all other respects.

Planning Policy

The legislative framework for the control of advertisements is contained within The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the "Regulations"). Regulation 3 states that advertising should be controlled in the interest of amenity and public safety, taking into account the provisions of the development plan, in so far as they are material, in addition to any other relevant factors. This is reiterated both in national and local planning policy.

The recently updated National Planning Policy Framework 2018 (NPPF) sets out the government's planning policies for England and how these are expected to be applied. The overarching theme of the document is sustainable development and seeks to achieve

positive improvements in the quality of the built, natural and historic environment. The NPPF places great importance on the design of the built environment as a key aspect of sustainable development.

With regards to advertisements Paragraph 132 of the NPPF reflects the Regulations and states:

“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.”.

The Local Development Framework for Manchester currently consists of the Manchester Core Strategy (2012), the Manchester Proposals Map and the saved policies of the Unitary Development Plan. Policy DC15.1, DC15.2 and DC15.3 of the Unitary Development Plan relates to advertisements of the proposed nature and reflects the position of the Regulations and NPPF.

Planning Conditions

The main powers in relation to planning conditions are in sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990. Powers to impose conditions on appeal are also given to the Secretaries of State or their Inspectors by sections 77, 79, 177, and Schedule 6 of the Act.

Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose “such conditions as they think fit”. This power needs to be interpreted in light of material considerations such as the National Planning Policy Framework, this supporting guidance on the use of conditions, and relevant case law.

Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

These are referred to in the NPPG as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply.

Any proposed condition that fails to meet one of the 6 tests should not be used. This applies

even if the applicant suggests or agrees to it, or it is suggested by the members of a planning committee or a third party. Specific circumstances where conditions should not be used include *"Conditions which unreasonably impact on the deliverability of a development"*.

As with any application for advertisement consent this proposal can only be considered in terms of its impact on public safety and amenity.

The appeal decision found the proposal to be acceptable in all respects subject to control via condition, applied in the interests of amenity and public safety (not specified which).

Amenity

The principle of the proposal in terms of its impact on amenity has already been established via the aforementioned appeal decision. Paragraph 9 of the decision confirms that the Inspector had taken account of Local planning policy in reaching this decision.

In assessing the amenity impact of the proposal the Appeal Inspector commented as follows:

"I consider the difference between displaying a single advert in this location and a multitude of adverts at intervals would not increase the visual prominence of the advert and so would have no material effect on the character of the area".

With this in mind the condition to limit the rate of change to once every 30 seconds is not necessary to protect amenity.

The Appeal Inspector also commented:

"I consider the difference between the two forms of illumination to have a negligible effect on the character of the area".

As such it would be more appropriate to apply the guideline limit set out in the Institute of Light Professionals Technical Note 05 "The Brightness of Illuminated Advertisements" which suggests a limit of 300cd/m² in urban areas. The applicant is willing to agree to a reduced level of 200cd/m² as this would be in line with the existing external illumination as demonstrated in the supporting lighting report.

Public Safety

The advertisements are positioned and designed to be readily visible to vehicles travelling east and west along Hyde Road. A review of the available CrashMap data indicates a very low accident rate around the site. Given the existing advert is well established this would indicate the site is an appropriate location for digital advertising.

The original application was refused on the grounds of amenity only and the Appeal Inspector did not consider public safety in any detail in his report. However, as conditions were said to have been added in the interests of amenity and public safety, the site has been assessed by Vectos in terms of its potential impact on highways safety. The report provided with this application concludes that there are no material reasons why the proposal to vary the condition should not be granted.

As the proposed changeover is once every 10 seconds, it is likely to change a maximum of once whilst in the view of drivers in 30mph traffic conditions. It should be noted that every 10 seconds is a typical changeover rate that is applied to roadside digital advertising sites across the UK. It would therefore require evidence to be presented to justify a departure from the standard approach for the condition to pass the test of being necessary. Likewise, there is no evidence that applying the standard rate of illumination of 300cd/m² would cause glare or otherwise distract drivers in this location. As the proposed level of 200cd/m² matches the existing luminance level, driving conditions will not be affected.

Conclusion

The proposal will consolidate the amount of advertising at the site and replace an outdated format with a modern equivalent. An identical proposal was found to be acceptable in amenity and road safety terms by the Planning Inspectorate. The conditions added to the appeal decision did not consider the impact on the deliverability of the development. The condition is not considered necessary to protect amenity or public safety as demonstrated above. As such the proposal should be reconsidered with the conditions amended to require a minimum changeover of advert every ten seconds, in line with standard practice, and a maximum night time luminance of 200cd/m².

Application Submission

In order to complete the application, please find attached the following documentation:

- Completed application forms prepared by Wildstone Planning;
- Letter Statement prepared by Wildstone Planning (this letter);
- Highways Safety Assessment prepared by Vectos
- Digital Poster Lighting Report prepared by LAPD

Additionally, we will arrange payment of the fee via the Planning Portal.

I trust that the above is clear and look forward to receiving notification that the application has been registered in due course. Should you have any queries in relation to the proposal, please do not hesitate to contact me.

Yours faithfully,



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