



APPEAL STATEMENT OF CASE

**80 OLDHAM STREET
MANCHESTER
M4 1LE**

Sainsbury's Supermarkets Ltd
September 2024

JT/GM/99218

APPEAL STATEMENT OF CASE

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MANCHESTER
M4 1LE**

Date: September 2024

Prepared by: James Tarpy
Senior Planner

Reviewed by: Gary Morris, MRTPI
Partner

Alder King Planning Consultants

Pembroke House, 15 Pembroke Road, Clifton, Bristol BS8 3BA

Telephone: 0117 317 1000

Email: planning.consultancy@alderking.com

Contents

1.0 Introduction 1

2.0 Site and Surroundings 2

3.0 Appeal Proposal..... 6

4.0 Planning Legislation and Policy 7

5.0 Grounds for Appeal..... 9

6.0 Conclusion 15

Appendices

Appendix A: Decision Notice

Appendix B: Officer’s Report

Appendix C: Signage Strategy.....

1.0 Introduction

- 1.1 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.
- 1.2 The appeal is made by Sainsbury's Supermarkets Limited (the Appellant) against the decision of Manchester City Council (the Council) not to grant advertisement consent. The application (ref: 140006/AO/2024), dated 14th June 2024, was refused under delegated powers on 7th August 2024. The Local Planning Authority refused the proposed advertisements on the grounds of their perceived impact on visual amenity.
- 1.3 The decision notice is attached to this submission in **Appendix A**.
- 1.4 The officer's committee report is attached to this submission in **Appendix B**.
- 1.5 The Regulations and the National Planning Policy Framework (the Framework) both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative effects.
- 1.6 The full reason for refusal as listed on the decision notice is as follows:

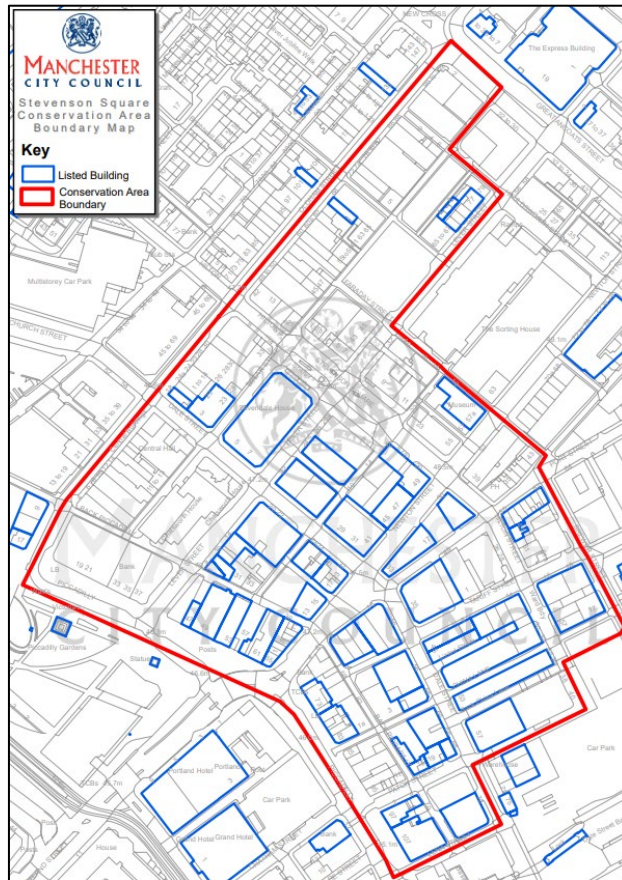
"1) The proposed fascia sign and projecting sign, by virtue of their design, position, appearance and location would not respond positively to the architecture and appearance of the building, thereby harming visual amenity. This would create a visually harmful feature in the street-scene within the Stevenson Square Conservation Area, to the detriment of the heritage value of immediate area. The advertisements would therefore be contrary to the Town and Country Planning (Control of Advertisements) Regulations 2007, saved policies DC14, DC15 and DC18.1 of the Unitary Development Plan for the City of Manchester, policies DM1, EN1, EN3, CC9 and SP1 of the Manchester Core Strategy, the National Planning Policy Framework (NPPF)."

2.0 Site and Surroundings

Site Description

- 2.1 The host building is located on the southeastern side of Oldham Street, described by the planning officer in his report on the appeal advertisement as “a recent modern addition to Oldham Street” (Officer Report, page 5). The building consists of apartments with commercial spaces on the ground floor. The building consists of 8 stories with 72 residential apartments within it. The building fronts Oldham Street, with Spear Street located to the rear of the building. Warwick Street and Houldsworth Street run along the sides of the building, connecting Oldham Street and Spear Street.
- 2.2 The appeal site is surrounded by a mix of large-scale residential apartment blocks with commercial uses on the ground floors. The immediate area also includes offices, creative industries, restaurants, and other town centre uses. The buildings around are a mix of heights and ages. Ground floor uses along Oldham Street are primarily retail/food and beverage with residential on the upper levels.
- 2.3 The entrance for the dwellings above the unit is located on the corner of Oldham Street and Warwick Street, with a bus stop being located directly in front of the entrance.
- 2.4 At the rear of the building along Spear Street at ground level, there is currently a substation for the building and a fire escape exit for the dwellings on the upper floors.
- 2.5 The appeal site is within the Stevenson Square Conservation Area, within the City Centre boundary, and the regional centre boundary.
- 2.6 Stevenson Square Conservation Area conservation area lies on the north-eastern edge of the city centre and was designated in 1987. The conservation area appraisal notes that the height, scale, colour, form, massing, and materials of new buildings should relate to the existing high-quality buildings and complement their character. Proposals should be aware of the rhythm of the buildings to enhance the area. Within the details of the conservation area on Manchester City Council’s website (https://www.manchester.gov.uk/info/511/conservation_areas/1208/stevenson_square_conservation_area#:~:text=It%20is%20one%20of%20a,Lever%20Street%20and%20Bradley%20Street), they state that “Signs and canopies should be carefully designed so as not to compete with or conceal, the architectural details of buildings”.
- 2.7 On this webpage the Council states that there is an enormous variety of styles within the conservation area. Superficial reflections or bland copies of historic buildings would make no positive contribution to the historic character of the area. The Council states that each building should have a vitality of its own.
- 2.8 **Figure 1** shows a map of the conservation area.

Figure 1: Map of Stevenson Square Conservation Area



2.9 **Figure 2** below shows a view of the site.

Figure 2: View of the Site



- 2.10 The surroundings of the site contain a mix of advertisements, with many being illuminated. The various retail units on both sides of Oldham Street feature a mix of different styles of fascia and projecting signs. Most recently, consent was granted for a new internally illuminated projecting sign at 60 Oldham Street in June 2024 (ref: 139867/AO/2024). **Figures 3 and 4** below show views along Oldham Street.

Figure 3: View Along Oldham Street (Google Maps)

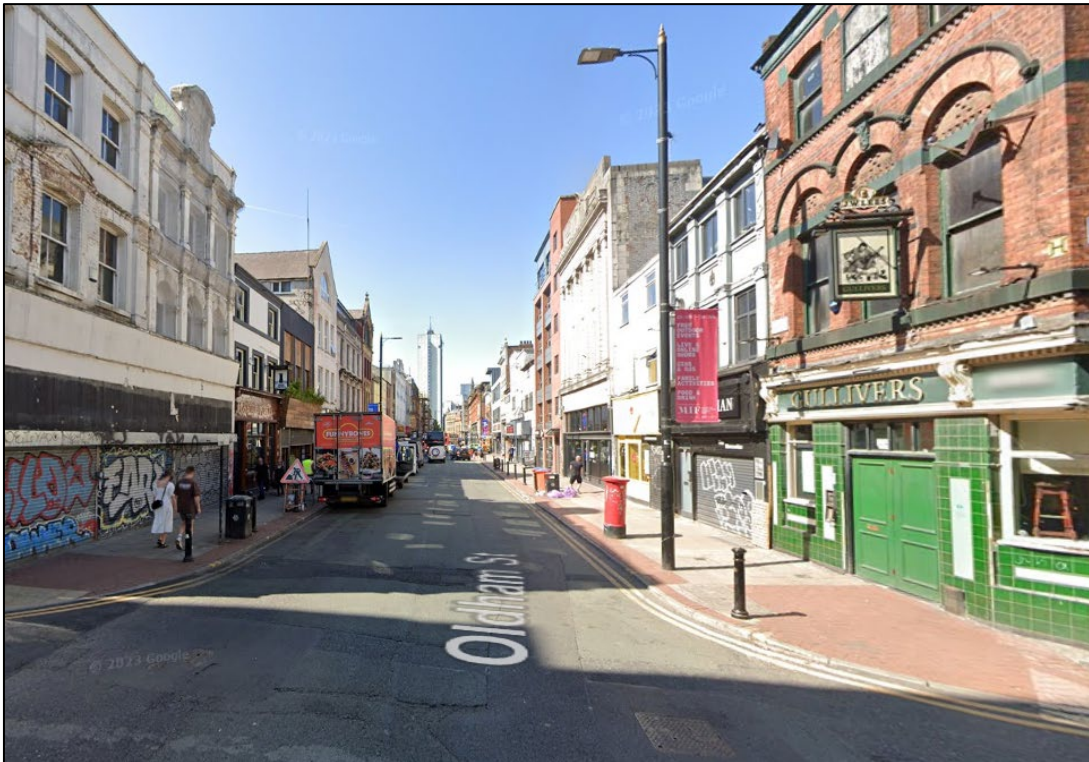


Figure 4: View Along Oldham Street (Google Maps) (Koffee Pot is adjacent to the appeal site)



Planning History

- 2.11 The planning permission for the construction of the building was granted in 2016 (ref: 110074/FO/2015/C2), with the appeal site being part of building A, and building B being on the opposite side of Spear Street to the rear.
- 2.12 Two applications for advertisements have been approved for building A. Application 138830/AO/2023 was approved for one projecting sign and 139167/AO/2024 for another projecting sign. Both of these signs relate directly to the occupying retail use and were found to be acceptable.
- 2.13 Relating to the unit proposed to be occupied by Sainsbury's, Conditions 11 and 31 have been discharged (ref: CDN/24/0404). Applications have also been submitted for shopfront changes (ref: 140005/FO/2024) and for new plant on the roof of the building (ref: 140007/FO/2024).
- 2.14 A "signage strategy" was required to be submitted and approved under Condition 29 of planning permission 131730/JO/2023 as amended by 139154/NMC/2024. The developer submitted this, which was approved by the local planning authority under application CND/24/0306. A copy of the signage strategy approved under Condition 29 is included at **Appendix C** of this appeal statement, although it is the appellants view that this should carry very limited weight (if any) in the determination of this *advertisement consent appeal*.

3.0 Appeal Proposal

- 3.1 The proposal seeks advertisement consent for the new signage associated with the occupation of the unit as a Sainsbury's Local convenience store. The signage will be located on the northwest elevation of the building facing onto Oldham Street.
- 3.2 The proposed advertisements consist of 1no. fascia sign and 1 no. projecting sign.
- 3.3 The proposed fascia sign is made up of individual acrylic fret cut lettering stating, 'Sainsbury's Local'. The lettering would be orange and white consistent with the branding with Sainsbury's. The lettering would be applied to an aluminium frame finished in silver. The lettering would be internally illuminated, with the orange letters being illuminated to 48 Candelas/m² and the white letters illuminated to 98 Candelas/m².
- 3.4 The proposed projecting sign would be located adjacent to the entrance of the new convenience store. The sign would be coloured orange with white text and would be made from aluminium. The sign would be illuminated to 144 Candelas/m².
- 3.5 Full details of the proposed signage can be seen in the drawings which were attached to the original application.

4.0 Planning Legislation and Policy

- 4.1 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.
- 4.2 The National Planning Policy Framework 2023 (NPPF) sets out the government’s planning policies for England and how these are expected to be applied. Following Paragraph 141 of the NPPF, advertisements should be subject to control only in the interests of amenity and public safety, taking into account cumulative impacts. The National Planning Practice Guidance (NPPG) describes the approach of advert consent as a “lighter touch” than the system for obtaining planning permission for development. The NPPG also clarifies that a local plan does not have to contain advertisement policies and that if such policies are considered necessary to protect the unique character of a particular area, these should be evidence-based.
- 4.3 When proposals may impact the significance of a designated heritage asset, great weight should be given to the asset’s conservation. Proposals which result in substantial harm will be resisted by the planning authority unless a clear and convincing justification is given.
- 4.4 NPPG states that “In practice, “amenity” is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement”.
- 4.5 The council cited the following policies that the proposal was contrary to:
- Saved Policies DC14, DC15, and DC18.1 of the Unitary Development Plan for the City of Manchester (UDP) (1995)
 - Policies DM1, EN1, EN3, CC9, SP1 of the Manchester Core Strategy (CS) (2012)
- 4.6 Below is a summary of the relevant policies from the UDP and CS:
- Unitary Development Plan**
- 4.7 Policy DC14 Shop fronts and related signs – Advertisements should only be controlled concerning amenity and public safety. Advertisements should respect the architectural form of the building and where no obvious fascia level exists, signs above the shopfront should be in keeping with the scale of the frontage.
- 4.8 Policy DC15 Advertisements, Hoardings, and Posters – The council will take account of the following when assessing advertisements: the character of the building, the scale relative to the locality, how much they intrude on the surrounding area, and if they would impact public safety.

- 4.9 Policy DC18 Conservation Areas – The Council will seek to preserve and enhance the character of its designated conservation areas. The effect of signs and advertisements will be considered with particular care within conservation areas.

Core Strategy

- 4.10 Policy DM 1 Development Management - All development should be appropriate in terms of siting, layout, scale, massing, materials, and design. Development should also have regard for the local character of the surrounding area and not impact the surrounding amenity, including noise levels.
- 4.11 Policy EN 1 Design Principles and Strategic Character Areas - All development within Manchester is expected to follow the seven principles of urban design. Opportunities for good design should be integrated into new developments.
- 4.12 Policy EN 3 Heritage - Developments will be encouraged to take advantage of the distinct historic features of the area. New development must preserve or enhance the historic environment of the historic environment. The importance of the character, setting, and accessibility of the historic environment should be acknowledged in developments.
- 4.13 Policy CC 9 Design and Heritage - The design of new buildings will need to be of the highest standard in terms of appearance and function, with particular attention given to the city centre's context and character. Developments should preserve or enhance the heritage assets of the centre, including listed buildings and conservation areas.
- 4.14 SP 1 Spatial Principles - All development in all parts of the city should make positive contributions to the area, make a positive contribution to the health of residents, and protect and enhance the built environment.

5.0 Grounds for Appeal

- 5.1 This section of the appeal statement sets out the grounds for this appeal concerning the proposed installation of the signage on the northwest elevation of Oldham Street associated with the new Sainsbury's convenience store, following the refusal of the application for advertisements consent 140006/AO/2024.
- 5.2 As previously set out above, proposals for advertisement consent should only be considered in terms of visual amenity and public safety. This proposal was refused based on its impact on visual amenity and impact on the conservation area which is addressed below. For completeness, the public safety merits of the proposal are also set out to fully demonstrate the acceptability of the signage.
- 5.3 The Local Planning Authority has referred the "Signage Strategy" in its Officer's Report, which was a document submitted in response to a condition on the planning permission for the development (**Appendix C**). The strategy identifies that signs for the building should be located behind the glazing.
- 5.4 The appellant's view is that applications for advertisement consent should be determined on their own merits and that the planning permission for the building (including its conditions) should not be used as a mechanism to limit, curtail, alter or avoid adherence to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, the NPPG and Planning Practice Guidance in respect of the control of advertisements.
- 5.5 The control of advertisements has been deliberately assigned bespoke regulations for a reason and it is the appellants view that the LPA's attempt to bring control and influence on the control of advertisements under the umbrella of applications for *planning permission* is an abuse of the planning system. Applications for advertisement consent should be considered solely under the regulations designed specifically for that purpose. Planning conditions that seek to control advertisements under a planning permission (or its conditions) are, in the appellant's view, *ultra-vires*. The appellant therefore attaches very limited weight to the content of the signage strategy approved under condition 29 of the planning permission for the building.

Amenity

- 5.6 The application was refused on the ground of amenity with the refusal reason stating:

"The proposed fascia sign and projecting sign, by virtue of their design, position, appearance and location would not respond positively to the architecture and appearance of the building, thereby harming visual amenity. This would create a visually harmful feature in the street-scene within the Stevenson Square Conservation Area, to the detriment of the heritage value of immediate area. The advertisements would therefore be contrary to the Town and Country Planning (Control of Advertisements) Regulations 2007, saved policies DC14, DC15 and DC18.1 of the Unitary Development Plan for the City of Manchester, policies DM1, EN1, EN3, CC9 and SP1 of the Manchester Core Strategy, the National Planning Policy Framework (NPPF)."

- 5.7 Policy DM 1 of the CS requires all development to be appropriate in terms of siting, layout, scale, massing, and design. Development must also have regard for the local character, with Policy EN 1 expecting proposals to follow the principles of urban design with opportunities for good design being integrated. Policy SP 1 requires all development to make a positive contribution to the area and protect the built environment.
- 5.8 The officer considered that the proposed advertisements would be harmful to the appearance of the building by its design, position, appearance, and location. They also considered that the proposed advertisements would be detrimental to the visual appearance of the Stevenson Square Conservation Area.
- 5.9 Within their report, the officer states that because of the design of the building having no natural fascia position, new signage needs to be carefully considered. They state the 'optimal position' for any signage would be behind the glass of the shopfront. The officer felt that the fascia sign would 'cut awkwardly across the frame of the ground floor commercial unit'.
- 5.10 We would contest these points as careful consideration has gone into the design and scale of the proposed fascia sign. The starting position for any retailer is that a standard 'fascia board' with standard corporate branding would be the preferred approach. For Sainsbury's, such an arrangement would appear similar to the example below, in **Figure 5**, which is the Sainsbury's Local on Deansgate, Manchester, which is faces the Deansgate/Peter Street conservation area, from where the photograph is taken.

Figure 5: Sainsbury's Local, Deansgate/Quay St, Manchester – Typical Sainsbury's Local Signs



- 5.11 In recognition of the quality of the host building, and the LPA's desire for a sensitive design, Sainsbury's took the decision not to progress a typical design for the proposed signs. In doing so, the traditional fascia board design was forsaken in favour of individual letters on a box framework. Whilst this is not typical of many other signs in the immediate surroundings which adopt a less sympathetic approach, the appellant accepted that a more sympathetic approach with a much more discrete design. The design of the signage went through several iterations with the final design being chosen as it had successfully been implemented on a similar Sainsbury's Local at Old Mill Street, Islington Wharf, also in Manchester, shown in **Figure 6**. In their report for the appeal sign, the Council discounted this examples relevance, stating that they assess applications on a 'case-by-case basis'. Whilst we agree that this is correct approach, we remain of the view

that the Islington Wharf store demonstrates that the proposed sign would be discrete, sensitive and appropriate for the host building. Reference to this store simply demonstrates how the sign would appear in reality and demonstrates how it fits with a similarly designed building that also has no “natural fascia position”.

Figure 6: Sainsbury's Local Old Mill Street



- 5.12 Oldham Street contains a plethora of different fascia designs, including traditional fascia boards and individual lettering. The proposed fascia would be lower in height than other fascia boards along Oldham Street so that it respects the position of the glazing on the host building. As such, it would be less visually apparent than these existing boards which have been approved previously on other properties. We would therefore see the proposed fascia sign as being in keeping with the surrounding character of the area and visibly in keeping with the building.
- 5.13 UDP Policy DC14 requires advertisements to respect the architectural form of the building and be in keeping with the shopfront in terms of scale. Since the building was permitted with commercial premises at ground floor, it must be expected that ground floor uses will take on a commercial appearance. Indeed, active ground floor uses are exactly what a city-centre needs, and it would be unrealistic to think that these could exist without corresponding advertising and commercial activity. Policy DC15 states that advertisements should relate well to the character of the building and not intrude on the surrounding area. The store's only frontage applied sign will occupy only a very small percentage of the overall elevation of the building, with the appearance of the building largely unaffected by the presence of the sign. The building is of a significant size with the proposed fascia only occupying a smaller percentage on one part of the

ground floor. Given this small scale, there will be no overall change in the visual quality of the overall building, with the significant elements of the design being maintained.

- 5.14 The officer claimed within their report that “The introduction of a single external fascia sign and a projecting sign of a different depth to the others approved would undermine the visual cohesiveness of the whole development.”. We do not see how signage of such a small scale could undermine the whole development, given the limited scale of the signage and that it will relate to the ground floor retail units which have always been part of the building since its inception.
- 5.15 As mentioned within the officer’s report, and during our correspondence with the Council, they stated that the ‘optimal position’ for the fascia would be behind the shopfront glass. This was not considered a reasonable option given the commercial nature of the surroundings and that there is no precedent for having fascia signage behind the glass on any of the neighbouring units. Whilst the building is within a conservation area, it is the case that much of Manchester City Centre is similarly within one of the many conservation areas. Such designations do not dictate that commercial premises should be deprived of commercial representation. Indeed, it is the recognition that the site is within the conservation area that has led the appellant to pursue a non-standard approach with a sign consisting of individual letters mounted on a discrete frame rather than a fascia board.
- 5.16 In terms of the proposed projecting sign, the officer raised an issue with the thickness of the sign, being 100mm thick. The officer claims that the usual thickness for a projecting sign is 30mm maximum within the city centre and provides two examples. We do not see the provided two examples as denoting a requirement for projecting signs to be this thickness and nowhere within Manchester’s published policy is this mentioned. We therefore do not agree with the Council that this is “the clear position on the part of the City Council”. If it were the position, it would have been adopted as part of the Council policy. We would also like to point out the inconsistency with the Council approach that they can highlight examples they feel are relevant and take them into account while stating that we cannot raise an example as the application must be considered on a ‘case-by-case basis’. The Council deciding when to apply rules only when it is convenient to them is not an example of working proactively with applicants.
- 5.17 The proposed projecting sign would not appear out of place within this busy commercial setting, with this design of sign being used successfully across the country in the city centre and historic environments. There are numerous examples of existing projecting signs along Oldham Street which are as thick, if not thicker, than the proposed sign. We do not consider that 100mm is excessively thick, particularly given the need to incorporate internal equipment to facilitate the illumination. A sign of this size will not intrude onto the street scene and will form part of the visual character of this active retail area.
- 5.18 Given the above, the proposed signage is high quality, appropriate for this commercial location, and would not impact on the qualities of the host building. The proposed signage is therefore in alignment with Policy DC14 and DC15 of the UDP, and Policy DM 1, EN 1, and SP 1 of the CS.

Heritage

- 5.19 Within the reason for refusal, it is also stated that the sign “would create a visually harmful feature in the street-scene within the Stevenson Square Conservation Area, to the detriment of the heritage value of the immediate area”. UDP policy DC18 seeks to preserve or enhance the character of the designated conservation areas, with Policies EN 3 and CC 9 of the CS seeking to encourage development to preserve the historic environment and its setting. Policy CC 9 states that design needs to be of the highest standard with particular attention given to the city centre’s context and character.
- 5.20 The appeal site is located on the northern edge of the conservation area and faces onto the opposite side of Oldham Street, which is not covered by the Stevenson Square Conservation Area. The majority of the significance of the conservation area comes from the areas to the south, around Stevenson Square. The site would not be seen as a gateway or significant view within the conservation area.
- 5.21 The host building is of a modern design (a fact wilfully acknowledged by the planning officer in their report) and its surroundings contain a mix of styles and existing advertisements. Given this context, the proposed advertisements would not have a material impact on this part of the conservation area.
- 5.22 Within their report, the officer offers no particular heritage concerns with the proposed signage except that because the site is within the conservation area the signs are considered to be poor quality. As set out within the amenity section above, the signage is not poor quality and would not undermine the design of the building. On the contrary, the appellant has gone to lengths to ensure that the signs are discrete and sensitively designed in the context of the character of this part of the conservation area and in relation to the modern host building. As such the proposed development is in alignment with EDP Policy DC18 and CS Policies EN 3 and CC 9.

Public Safety

- 5.23 The application was not refused on public safety grounds. No concerns were raised by either MCC Highways Service or Environmental Health. The officer states that the proposed level of illumination would prevent any potential impact on drivers. The officer concluded that there “are no public safety concerns that would warrant a refusal.”.
- 5.24 The proposed signage is therefore in alignment with Policy DC14 and DC 15 of the UDP.

Other Matters

- 5.25 Although not mentioned within the reason for refusal, within the officer's report they refer to a signage strategy which was required to be submitted as part of 110074/FO/2015/C2. A strategy was submitted and approved to the Council on 11/06/24 (ref: CDN/24/0306). The appellant’s position is set out earlier in this appeal statement. We contend that applications (and appeals) for advertisement consent should be

considered by reference to the advertisement regulations. Whilst it may be the case that an allowed advertisement ends up being contrary to a strategy approved under a condition on a *planning permission*, that should not prevent such consent from being granted. The upshot of such a decision is that the LPA could potentially serve a breach of condition notice if the signage strategy was not subsequently updated to reference an allowed advertisement. That is a separate matter which is fully acknowledged by the appellant. Appropriate procedures to seek to re-discharge that condition and appeal any refusal are in place, should this become necessary.

6.0 Conclusion

- 6.1 Following Regulation 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, advertisements should only be controlled where they are harmful to amenity or public safety.
- 6.2 This appeal proposal is seeking advertisement consent for 1no. fascia sign and 1no. projecting sign as part of the occupation of this unit as a Sainsbury's Local.
- 6.3 As demonstrated through this statement, the proposed signage will not be detrimental to the surrounding amenity or public safety, aligning the development with local and national policy.
- 6.4 To this end, it is respectfully requested that the appeal be allowed, and advertisement consent be granted for the proposed signage.

Appendix A: Decision Notice

Appendix B: Officer's Report

Appendix C: Signage Strategy



Alder King Planning Consultants
Pembroke House, 15 Pembroke Road, Clifton, Bristol BS8 3BA