

14th July 2023

Manchester City Council
Planning
PO Box 532
Town Hall
Manchester
M60 2LA

Wildstone Reference: 13660

Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Address: 48 Ashton Old Road, Ardwick, Manchester, M12 6LP

**Proposal: Vary Condition 3 of express advertising consent
136149/AOH/2023 for 1no. D-Poster digital advertising display.**

Dear Sir/Madam,

We have been instructed by Wildstone Estates Limited to submit an application for advertisement consent at the above site. The extant application seeks to reapply for express consent to vary Condition 3, an onerous condition placed on the extant consent. The condition does not meet the tests for planning conditions as set out in Planning Practice Guidance (PPG). Express consent was first granted at the site for a D-Poster slimline digital advertising display on 6 July 2021 by the Planning Inspectorate under reference APP/B4215/Z/21/3269491. However, the applicant was unable to build out the consented D-Poster in accordance with the express consent due to engineering works being required. The applicant reapplied to the Council for express advertising consent to accommodate the necessary engineering works, and the Council granted consent subject to conditions on 31 March 2023 under reference 136149/AOH/2023 (Decision notice attached) for an identical D-Poster display.

However, Condition 3 (below) of the express consent is onerous as it requires the advertising display to be removed on the expiry of the express consent, and also prevents the legal operation of the display under Class 14 of the Regulations once express consent expires. Condition 3 also unnecessarily requires the Council to be notified in advance of the consented display's first operation.

Condition 3

Wildstone Capital Ltd

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e hello@wildstone.co.uk

w wildstone.co.uk
a 22 Berghem Mews, Blythe Road, London W14 0HN

3) (a) *The express advertisement consent hereby granted is limited to a period of five years starting on the date of the commencement of the display of the advertisement hoarding(s).*

(b) *Written notice shall be given to the Council of the date of commencement of the display of the advertisement hoarding(s) within 7 working days of that commencement.*

(c) *On the date of the expiry of the express consent period in (a) above the advertisement hoarding(s) and all associated development shall be removed, any use of the land authorised by this consent shall be discontinued, and the land/building shall be reinstated in accordance with a scheme previously approved.*

Reason: To enable the City Council to consider the acceptability of the continuance of the display of the advertisement hoarding(s) at the site on the expiry of the period of express consent, having regard to visual amenity and changing circumstances in the locality in order to comply with saved policies DC15.1 and DC15.2 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy for the City of Manchester.

In reference to the Regulations, the PPG restates the requirement for conditions (other than standard conditions) to be supported by specific and relevant planning reasons. It also states unequivocally that conditions should never be imposed because the LPA simply wishes, as a matter of general policy, to prevent the operation of Class 14 in Schedule 3; advertisements displayed after expiry of express consent in their area.

The imposition of Condition 3, as worded, would deprive the applicant of its right to retain the advertisement under deemed consent at the end of the express consent period, and would frustrate the operation of Class 14 in Schedule 3 without any specific, detailed, or justified requirement to do so in regard to amenity, public safety, or any other relevant planning matter.

The Proposal

The proposal is submitted to vary an onerous condition which does not meet the test for conditions set out in the PPG. The proposal therefore seeks a new express consent identical to that of 136149/AOH/2023 for a D-poster digital advertising display without the requirement to remove the advertisement at the end of the express period, or notify the Council of the display's first operation. Therefore Condition 3 of the new consent would read as follows:

Condition 3: Express consent shall expire five years from the date of this notice

Reason: For the avoidance of doubt and in the interests of proper planning.

In granting express consent 136149/AOH/2023 the Council were satisfied that the digital display would be acceptable in the interests of amenity and public safety. No further information or justification was set out in the officer's report or decision notice that would indicate that there would be any anticipated change to the area in either amenity or public safety terms after the express consent expires. The Council's reason for the condition; to enable the City Council to consider the continued acceptability of the site '*having regard to visual amenity and changing circumstances in the locality*', is overly generic and vague, and is not supported by any site specific reasoning, justification, or further information. There is no evidence to suggest the consented D-Poster would become unacceptable after the expiry of express consent, or that its removal is required for the Council to make any such determination.

Within the delegated report there is mention under the '*Timescale*' section that the applicant '*indicated that the signage will be displayed for 5 years*' and therefore the '*signage has been conditioned to this timescale*'. However,

this is incorrect, the applicant at no point indicated the signage would only be displayed for five years. It can only be assumed that there has been confusion / misinterpretation over the '*period of time for which consent is sought for the advertisement*' within the Application form's '*Advertisement(s) Period*' section. The Council make no further reference to this point within the decision notice or the delegated report, and do not list it as a reason for the imposition of Condition 3 as currently worded. Should it be that this is the reason for the inclusion of Condition 3, then the applicant requests that the Council address the mistake and vary Condition 3 by granting a renewed express consent.

Should it be that the above error did not influence Council's decision to include Condition 3 as worded, then it appears that the Council has simply imposed what would historically have been a standard condition, requiring the removal of the advertising display on expiry of the five year express consent (with standardised reasoning), without any site specific justification. As there is no specific or relevant reason identified (within the decision notice or officer report) for the imposition of Condition 3, it is considered that it perhaps may have been added as a continued administrative error; multiple digital displays similar to the consented D-Poster, without the inclusion of the previously standard onerous condition have been granted express consent throughout Manchester, see below **Appendix 1**

Moreover, the appeal decision (APP/B4215/Z/21/3269491, attached) which informed the Council's decision to grant the extant express consent (136149/AOH/2023), contained no such 'removal' condition, and simply stated that the express consent would be for a period of 5 years, as per the standard conditions for advertising consents. The Planning Inspector at no point considered that there should be any requirement for the display to be removed on expiry of the express consent, or that there would be such a change to the surrounding environment (in regard to amenity and public safety) that the consented D-Poster would become unacceptable.

NOTE: The Planning Inspectorate have again confirmed that such 'removal' conditions are improper with appeal decision APP/T5150/H/23/3315350 issued on 13 July 2023. The Inspectorate varied Brent Council's express advertising consent by deleting the onerous 'removal' condition and replacing it with a condition that simply limits the express consent period to 5 years.

Therefore, in light of the above points and examples provided, the applicant seeks to vary Condition 3 to the standard wording pertaining to the express consent period by means of a new grant of express consent. It is important to note that all other aspects of the proposal remain identical to the extant grant of express consent under reference 136149/AOH/2023.

The proposal to vary Condition 3 of express consent 136149/AOH/2023 ensures that the consented D-poster digital display would remain; a standard 48-sheet unit, measure 6m(w) x 3m(h) x 0.1m (d), and be positioned 5.65m above ground level. Advertisements would be static two-dimensional, and update every 10 seconds on a one minute cycle. The display will adhere to conditions set out within **Appendix 2** to control all aspects of its operation. It will therefore be limited to 300cd/sqm at night, as per Condition 4 of express consent 136149/AOH/2023 for the consented D-Poster.

Conditions

All advertisements are subject to the five standard conditions set out in the Regulations. The proposed D-Poster will accord with standard conditions, Condition 3 as varied by the applicant, and the remaining conditions of express consent 136149/AOH/2023 (Conditions 1 – 7) included at **Appendix 2**.

The Site

The proposal site comprises land and buildings adjacent to 48 Ashton Old Road in Manchester and is located on the south side of Ashton Old Road, at the entrance to commercial properties and opposite the junction with Viaduct Street. The site currently supports an externally illuminated 96-sheet billboard that is fixed to a structural wall and is in an elevated position.

The site's immediate surrounding is predominantly commercial in character with commercial premises, and associated business related advertisements surrounding the site. There are no residential properties located within close proximity to the site. Motorpoint Manchester, a car dealership, is located approximately 47m north of the site and Martins Holiday Village is located approximately 140m northeast of the site.

The site is not subject to any statutory landscape, environmental or historic designations and is not located within a Conservation Area. There are no Listed Buildings or Locally Listed Buildings within close proximity of the site.

As highlighted, the site benefits from express advertisement consent which permits the replacement of the existing externally illuminated 96-sheet billboard with a 48-sheet D-Poster slimline digital display. Before the extant grant of express consent, the Planning Inspectorate granted express consent in 2021 for an identical D-Poster display (albeit without the necessary engineering works). In addition to the two recent grants of express consent on site, there are three further digital consents within proximity of the site, see below.

- 118613/AOH/2017 - Land At Fairfield Street, Manchester, M12 5FX - Replacement of an existing illuminated 96-sheet advertising signage with a 48-sheet digital LED display advertisement signage, approved at appeal 16th July 2018.
- 123033/AOH/2019 - Land At Ashton Old Road Corner Chancellor Lane, Manchester, M12 5FX - Removal of the existing advertisements to be replaced with one internally illuminated digital display advertisement sign, approved 10th May 2019.
- 128689/AOH/2020 – Right Corner Lime Bank Street, Ashton Old Road, Manchester, M12 6LP – Installation of LED advertisement hoarding with integrated plinth to replace existing illuminated advertisement hoarding, approved 18th January 2021.

Accordingly, the proposal site and surrounding area is a long established and accepted location for advertising, with the existing externally illuminated billboard display benefitting from deemed consent under Class 13 of the Regulations, having continuously operated for over 14 years.

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.

The National Planning Policy Framework 2021 (NPPF) sets out the government's planning policies for England and how these are expected to be applied. In accordance with Paragraph 136 of the National Planning Policy Framework (NPPF) advertisements should be subject to control only in the interests of amenity and public safety, taking into account cumulative impacts.

Planning Considerations

The proposal for a new express consent to vary Condition 3 of the extant express consent (ref: 136149/AOH/2023) would have no impact upon amenity or public safety, nevertheless, it is acknowledged by

the applicant that an application for express advertisement consent requires the Council to consider potential impacts upon the amenity and public safety of the site, street scene, and surrounding area. Therefore, the applicant considers the proposal's impact in amenity and public safety terms below:

Amenity

As the proposal only seeks to renew (update) express consent 136149/AOH/2023 with a standard express period which has no requirement to remove the display upon its expiry, there would be no alteration to the approved position, operation, or function of the consented D-poster display. Illumination levels during daylight and at night would also be identical, ensuring the brightness of advertisements are appropriate to the local area at all times.

The commercial and highway infrastructure related context in which the site is seen, the commercial character of the wider area, and the commercially orientated appearance of the street scene, remain identical to the point at which express consent 136149/AOH/2023 was granted during March 2023.

Under the '*Design and Impact on the Streetscene*' section of the Council's delegated report for express consent 136149/AOH/2023, it is confirmed that the *design and visual appearance of the development is considered to be acceptable*. It therefore stands to reason that the proposal to renew express consent and vary Condition 3 would be entirely acceptable in regard to any perceived amenity impacts on the site, street scene, or surrounding area.

Public Safety

In determining application 136149/AOH/2023 the Council's Highway Services team noted that '*The location of the digital poster would not adversely impact vehicles travelling along Ashton Old Road*'. There is no reason / indication that the proposed D-Poster would have any further impact than the identical and consented display which the Highway Services team previously considered.

Under these circumstances it is considered that the consented digital display and the proposed display would not constitute a hazardous distraction to anyone exercising a reasonable standard of care. Consequently, the proposal would not give rise to public safety issues that would prevent the granting of a renewed express advertising consent.

Conclusion

The proposal for a new express consent with a standard express period, without the requirement to remove the panel, would have no material impact upon the amenity and public safety of the site or surrounding area. The site is located within a commercially orientated environment and would be experienced in this context. There are no existing issues or future anticipated changes to the area in amenity or public safety terms that would justify a condition requiring the removal of the consented advertisement at the end of the express period. Varying Condition 3 as outlined ensures the applicant would be able to exercise their legal right to operate the D-Poster display with deemed consent, under Class 14 of the Regulations, once the express consent expires.

The reasoning for the original condition is vague and overly generic and does not relate to any site specific issues or concerns. There is no further information or justification to demonstrate why the applicant's rights under Class 14 should be revoked at the end of the express period (comments regarding a requested *five year display period* are not considered valid). Nonetheless, should circumstances change in the future, the Council would retain powers to discontinue the advertisement at the end of the express period.

For these reasons, it is considered that the application should be granted express consent but with a standard five year express period, and no requirement to notify the Council of the site's first operation. There are no sound planning grounds to either refuse the application, or to impose a removal condition.

Application Submission

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

- Completed application forms
- Letter Statement (this letter);
- Architectural drawings including;
 - 13660 PA 01 Site Location Plan
 - 13660 PA 02 Existing Site Plan
 - 13660 PA 03 Proposed Site Plan
 - 13660 PA 04 Existing Elevations
 - 13660 PA 05 Proposed Elevations

Additionally, we will arrange payment to the Council to cover the cost of the Advertisement Consent application.

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

Yours faithfully,

RP

Planner

Email: richard.page@wildstone.co.uk

Important – Planning permission & notices of consent

Compliance with conditions

- Your planning approval or consent is attached. It will contain conditions that you must comply with.
- Please read the conditions and understand their requirements and restrictions, for example submission and approval of details or measures to protect trees.
- Some conditions will require action before you start development and it is imperative that you seek to have these discharged before any work commences.
- Whilst every effort has been made to group conditions logically, it is your responsibility to ensure that you are aware of the requirements and/or restrictions of all conditions.
- If you fail to comply with the conditions this may result in a breach of planning control and this may lead to enforcement action.
- Failure to comply with conditions may also result in the development not being lawful.
- It is in your interests to demonstrate that conditions have been complied with. Failure to do so may cause difficulties if the property is sold or transferred.
- A fee is payable for each request to discharge conditions.
- For advice on any of these matters, please contact Planning, Manchester City Council, PO Box 532, Town Hall, Manchester M60 2LA or email planning@manchester.gov.uk

Town & Country Planning (Control of Advertisements) (England) Regulations 2007

Advertisement Consent

Applicant

Wildstone Estates Limited
1 Bartholomew Lane
London
EC2N 2AX

Agent (if used)

Mr Justin Kenworthy
Stantec UK Ltd (formerly Barton Willmore
LLP)
7 Soho Square
London
W1D 3QB

Part 1 – Particulars of the application/development

Proposal: Installation of elevated digital poster sign

Location: Land And Buildings Adjacent To 48 Ashton Old Road, Southside Of Ashton Old Road, Manchester, M12 6LP

Date of application: 3 February 2023

Application number: 136149/AOH/2023

Part 2 – Particulars of decision

Manchester City Council gives notice that the development referred to in Part 1 has been **granted** in accordance with the application and plans submitted subject to the condition(s) listed below (if any).

Condition(s) attached to this decision

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

No advertisement shall be sited or displayed so as to:

- (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
- (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

3) (a) The express advertisement consent hereby granted is limited to a period of five years starting on the date of the commencement of the display of the advertisement hoarding(s).

(b) Written notice shall be given to the Council of the date of commencement of the display of the advertisement hoarding(s) within 7 working days of that commencement.

(c) On the date of the expiry of the express consent period in (a) above the advertisement hoarding(s) and all associated development shall be removed, any use of the land authorised by this consent shall be discontinued, and the land/building shall be reinstated in accordance with a scheme previously approved.

Reason - To enable the City Council to consider the acceptability of the continuance of the display of the advertisement hoarding(s) at the site on the expiry of the period of express consent, having regard to visual amenity and changing circumstances in the locality in order to comply with saved policies DC15.1 and DC15.2 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy for the City of Manchester.

4) (a) No individual advertisements displayed on the LED panel shall contain moving images, animation, video or full motion images or any images that resemble road signs, traffic lights or traffic signs.

(b) No individual advertisements shall be displayed for duration of less than 10 seconds.

(c) Controls shall be in place to ensure smooth uninterrupted transition of images displayed on the panel.

(d) The display panel shall be fitted with a light sensor, designed to adjust the brightness to changes in ambient light levels.

(e) A mechanism shall be in place so that if the installation breaks down, it defaults to a black screen to avoid any flashing error messages or pixilation.

(f) The maximum luminance level of the advertisements displayed on the panel shall not exceed 300cd/m² during non-daylight hours / inclement weather.

Reason - In the interests of pedestrian and highway safety and in order to safeguard the amenities of the area pursuant to policies SP1 and DM1 of the Core Strategy for the City of Manchester and policy DC15 of the Saved Unitary Development Plan.

5) The advertisement consent hereby approved relates to the display of one, 48 sheet digital advertisement sign following the removal of the existing 96 sheet advertising hoarding, which shall be implemented in accordance with the following drawings and documents stamped as received by the City Council as local planning authority on 3 February 2023:

Application forms to display advertisements;

Site location plan Ref: 011-0203-0073/PA/01;

Proposed site plan Ref: 011-0203-0073/PA/03;

Proposed Elevations Ref: 011-0203-0073/PA/05;

Covering letter from Barton Willmore (now Stantec) Ref: 31871/A5/JK dated 16 January 2023.

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Core Strategy for the City of Manchester.

6) The authorised signage shall be implemented in accordance with the detail of drawing referenced Proposed Elevations 011-0203-0073/PA/05 relating to material specification and external finishes, including the incorporation of an external jet black colour treatment (RAL 9005) to the cladding panels supporting the digital signage structure. The approved external colour treatment shall be applied to the signage prior to the authorised digital signage being brought into use and maintained in situ at all times thereafter.

Reason - In the interests of the visual amenities of the streetscene pursuant to policies SP1 and DM1 of the Core Strategy for the City of Manchester.

7) Notwithstanding the detail of drawings ref: Proposed Elevations Ref: 011-0203-0073/PA/05, the advertisement consent hereby approved does not confer consent of the erection timber safety fencing to the Ashton Old Road boundary as shown on Proposed site plan Ref: 011-0203-0073/PA/03.

Reason - In the interest of the amenities and appearance of the streetscene as a radial route to and from the city centre pursuant to policies SP1 and DM1 of the Core Strategy for the City of Manchester and saved policy E3.8 of the Unitary Development Plan.

Informatives

The application site is located within land that may be required to construct and/or operate Phase 2b of a high-speed rail line from Crewe to Manchester, known as High Speed Two. Powers to construct and operate High Speed Two are being sought by promoting a hybrid Bill in Parliament and as a result the application site may be compulsorily purchased. In addition as the HS2 project is not yet at a detailed design stage the applicant is advised to closely follow ongoing progress of the HS2 programme at:

<https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.hs2.org.uk%2Fin-your-area%2Flocal-community-webpages%2Fwestern-leg%2F.%25E2%2580%259D&data=05%7C01%7Ccarl.glennon%40manchester.gov.uk%7Cfa944e9af6ed4f515a3808db134333a3%7Cb0ce7d5e81cd47fb94f7276c626b7b09%7C0%7C1%7C638124951579492468%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikk1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=OqdLQVUOXLC6HQBwYeUnliYG204A3cbTvWIG6PoLODg%3D&reserved=0>

The details of fencing to be erected adjacent to the elevated Ashton Old Road boundary, as shown on drawing ref: Proposed Elevations Ref: 011-0203-0073/PA/05, should be submitted for consideration as part of a separate planning application.

Date: 31 March 2023

Signed:

A handwritten signature in black ink, appearing to read 'Julie Roscoe', written in a cursive style.

Julie Roscoe
Director of Planning, Building Control & Licensing

Manchester City Council, P O Box 532, Town Hall, Manchester M60 2LA

Notes

1. This consent refers only to that required under the Town and Country (Control of Advertisements) (England) Regulations 2007 does not include any consent or approval under any other enactment, byelaw, order or regulation.

2. If the applicant is aggrieved by the decision of the local planning authority to refuse consent or approval for the proposed development, or to grant consent or approval subject to conditions, he may appeal to the Secretary of State in accordance with section 78 of the Act as amended by the Regulations within eight weeks of the date of the notice of the decision.

The Planning Inspectorate have introduced an online appeals service that is available through the gov.uk website at www.gov.uk/appeal-planning-inspectorate. The Inspectorate will publish details of your appeal on the internet.

This may include a copy of the original planning application form and any supporting documents supplied to the local planning authority. By you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information, that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission. More detailed information about data protection and privacy matters is available on the Planning Portal.

Alternatively, appeals can be made on a form which is obtainable from Planning Inspectorate, Customer Support Unit, Room 3/15, Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 or by telephone 0117 372 6372.