



## Planning Committee: A

### **ADVERTISING ON THE RIGHT SIDE OF 293 STANSTEAD ROAD, LONDON, SE23 1JB**

**Date:** 15 November 2023

**Key decision:** No

**Class:** Part 1

**Ward(s) affected:** Crofton Park

**Contributors:** Lucy Bennett

### **Outline and recommendations**

This report sets out the Officer's recommendation of approval for the above proposal. The report has been brought before Committee for a decision due to the submission of 9 individual objections and an objection from the Blythe Hill Community Action Group (10 objections in total)

## Application details

<b>Application reference number:</b>	DC/23/131562
<b>Application Date:</b>	17 May 2023
<b>Applicant:</b>	Wildstone Group Limited
<b>Proposal:</b>	The installation of an internally illuminated digital LED sheet sign at Right Side of 293 Stanstead Road, SE23.
<b>Background Papers:</b>	(1) Submission drawings (2) Appeal decision (reference: APP/C5690/Z/18/3198998) (3) Internal consultee responses (4) Statutory consultee responses
<b>Designation:</b>	Hopcroft Neighbourhood Forum Air Quality Management Area PTAL 3
<b>Screening:</b>	N/A

## 1 SITE AND CONTEXT

### *Site description and current use*

- 1 The application relates to a three-storey end-of-terrace single-family dwellinghouse located on the northern side of Stanstead Road, opposite the junction with Carholme Road. The property is constructed of London stock brick with a two-storey front bay window.
- 2 The application site comprises the flank wall on the right side of the property at No. 293 Standard Road.
- 3 An existing advertisement of around 6m wide and 3m high is situated on the flank wall of No. 293.
- 4 To the east, the application site adjoins the property at No. 295 Stanstead Road which is part of a block of terraced properties that have commercial uses on the ground floor and residential uses above. On the ground level of No. 295 is a post office with an array of fascia and hanging signs on its front façade.
- 5 To the west, the application site adjoins the property at No. 291 Stanstead Road which has a ground level and upper level flat. This property is setback approximately 5m from the front boundary and has a moderate-sized paved front forecourt for vehicle parking.

### *Character of area*

- 6 Development along this section of Stanstead Road has a mixed-use character predominately comprising detached, semi-detached, and terraced two-storey properties.

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- 7 The properties on the northern side of Stanstead Road to the east of No. 293 contain ground-floor commercial and business units with residential dwellings above.
- 8 An advertisement of a similar size to the current one on the application site on the flank wall of the end-of-terrace property at No. 309 Stanstead Road at the intersection with Ravensbourne Road.

### ***Heritage/archaeology***

- 9 The property is not located within a conservation area, nor is it a statutory listed building or non-designated heritage asset.
- 10 Blythe Hill Tavern and the attached gate piers and walls at 319 Stanstead Road are Grade II listed (entry no. 1475999). This property is 131m east of the application property, at the intersection with Blythe Hill Lane.
- 11 Stanstead Lodge (entry no. 1079934), located 130m west of the application property at the intersection with Northwood Road, is a Grade II listed building.

### ***Local environment***

- 12 The site is located within an Air Quality Management Area.

### ***Transport***

- 13 The site has a moderate Public Transport Accessibility Level (PTAL) score of 3 on a scale of 1-6b, 1 being the lowest and 6b the highest. Catford Station is the closest train station to the application site, being 0.5 miles away at an approximate 10-minute walk. Stanstead Road is serviced by a number of buses, including the 185, 171 and N171 services.
- 14 Stanstead Road (A205) is a red route that forms part of Transport for London's (TfL) Road Network. TfL has noted that the current 30 MPH speed limit is due to be reduced to 20 MPH in the near future.
- 15 A cycle lane and on-street parking bay are located on the road outside the application property. The vehicle crossover for No. 291 is located 5m west of the application site. A speed camera facing west is located on the opposite side of the road.

## **2 RELEVANT PLANNING HISTORY**

- 16 On 9 July 2018, advertisement consent was refused for the installation of 1 x internally illuminated digital LED 48-sheet sign at this location (DC/17/104674). The application was refused for the following reason:
- 'The proposed advertisement, by reason of its location, size and the use of an illuminated digital display would constitute an incongruous addition to the street scene, harmful to local character and to the visual amenity of nearby occupiers, especially No.291A Stanstead Road contrary to DM Policy 19 Shopfronts, signs and hoardings, DM Policy 27 Lighting and DM Policy Urban design and local character of the Development Management Local Plan (November 2014).'
- 17 The Council's decision was appealed by Mr Paul O'Sullivan of Insite Poster Properties Ltd (ref: APP/C5690/Z/18/3198998). The main issues of the appeal case were:

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- The effect of the proposal on the character and appearance of the area; and
- The effect of the proposal on the amenity of existing occupiers at 291A Stanstead Road and surrounding properties.

18 On 10 July 2018, the Planning Inspector allowed the appeal and granted express advertisement consent for the display of a 48-sheet digital LED advertising display. The Planning Inspector stated that the consent must be for five years from the date of the decision (10 July 2018) and be subject to the five standard conditions set out in the Regulations and the following additional conditions:

- The advertisement hereby approved shall operate at an illumination level no greater than 300cd/m above ambient light levels at any time and in the hours of darkness not exceed 300cd/m.
- The advertisement hereby approved shall not be illuminated during the hours of 0000-0600.
- The interval between successive displays shall be instantaneous (0.1 seconds or less), the complete screen will change, there shall be no special effects (including fading, swiping, or other animated transition methods) between successive displays.
- There shall be no special effects (including noise, smell, smoke, animation, flashing, scrolling, three dimensional, intermittent or video elements) of any kind during the time that any message is displayed.
- The display panel shall have a default mechanism to switch it off in the event of a malfunction or during periods of maintenance.

19 On 10 May 2023, advertisement consent was refused for the installation of 1 x internally illuminated digital LED 48-sheet sign at the Right Side of 293, Stanstead Road, SE23 (DC/23/130576). The application was refused for the following reasons:

- *Reason for refusal 1: The proposed advertisement, by reason of its position, size and illumination on the host building would increase visual clutter on Stanstead Road and materially harm the visual amenity of nearby residential properties and the streetscape, contrary to paragraph 136 of the National Planning Policy Framework (2019), Policy D8 Public Realm of the London Plan (2021), DM Policy 19 Shopfronts, signs and hoardings, DM Policy 30 Urban Design and Local Character and DM Policy 35 Public Realm of the Development Management Local Plan (2014).*
- *Reason for refusal 2: The proposed advertisement, by reason of its position, size and illumination would impact public safety and increase the risk of collisions between motor vehicles and/or involving cyclists and pedestrians, particularly at night, contrary to paragraph 136 of the National Planning Policy Framework (2019), Policy D8 Public Realm and Policy 72 Healthy Streets of the London Plan (2021), Policy 14 Sustainable Movement and Transport of the Core Strategy (June 2011) DM Policy 19 Shopfronts, signs and hoardings and Policy 27 Lighting of the Development Management Local Plan (2014).*

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## **3 CURRENT PLANNING APPLICATION**

### **3.1 THE PROPOSALS**

#### **3.1.1 Background**

20 Wildstone Group Limited submitted an application to Council on 28 February 2023 to renew the advertisement consent granted by the Planning Inspector under the APP/C5690/Z/18/3198998 which was set to lapse on 10 July 2023. The application was submitted with drawings only and failed to provide any background on the submitted application or make any reference to the previous advertisement consent granted by the Planning Inspector in 2018. The Council did not have a record of the appeal decision on file at the time and a copy was not available on the Planning Inspectorate website.

21 On 10 May 2023, Council refused advertisement consent for the installation of 1 x internally illuminated digital LED 48 sheet sign at the Right Side of 293, Stanstead Road, SE23 (DC/23/130576). At the time of the assessment, Officers failed to acknowledge the Planning Inspector's decision for APP/C5690/Z/18/3198998. If they were aware of this decision then advertisement consent would have likely been granted, subject to the conditions set out in the appeal decision.

#### **3.1.2 Scope of proposal**

22 Advertisement consent is sought for the installation of 1 x internally illuminated digital LED 48 sheet sign at the Right Side of 293, Stanstead Road, SE23.

23 The existing advertising on the western elevation of the application property is proposed to be replaced with an LED digital display on a like-for-like size and siting basis.

24 The proposed sign will have a width of 6m wide, a height of 3m and a depth of 0.06m. It is proposed to have a maximum projection from the face of the building of 0.1m. The base of the advertising sign will be 5.7m above ground level. It is proposed to have a display with a maximum illumination level of 300 cd/m<sup>2</sup>.

### **3.2 COMPARISON WITH PREVIOUS SCHEME**

25 The proposal is the resubmission of the previously refused advertisement consent application under DC/23/130576.

26 The proposed advertisement is more streamlined than the previous advertising allowed by the Planning Inspector under APP/C5690/Z/18/3198998. The proposed advertising is the same height and width; however, the depth has been significantly reduced from 0.45m to 0.06m. The maximum projection of the advertising from the face of the building has also been reduced from 0.65m to 0.1m. The illumination level has been reduced from 600 cd/m<sup>2</sup> to 300 cd/m<sup>2</sup> to align with the Planning Inspector's conditions.

## **4 CONSULTATION**

### **4.1 APPLICATION PUBLICITY**

27 There is no statutory requirement to publicise applications for advertisement consent.

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- 28 In this instance, Officers noted the application may affect the amenity of neighbours and therefore their views have been sought. Letters were sent to residents and businesses in the surrounding area, the relevant ward Councillors, Hopcroft Neighbourhood Forum and Blythe Hill Community Action Group on 31 May 2023. A site notice was also displayed on site on 1 June 2023.
- 29 A total of 10 representations were received in response, comprising 9 objections from local residents and a further objection from the Blythe Hill Community Action Group.

#### 4.1.1 Comments in objection

Comment	Para where addressed
The proposal increases the visual clutter along Stanstead Road and would deteriorate the public realm, in terms of visual impact	Para 54 to 57
The proposal is out of character with the residential setting of the area and would create a commercialised feeling.	Para 54 to 57
Light pollution from the LED advertisement will impact the amenity of nearby residents	Para 58 to 60
The large, illuminated sign will distract drivers, cyclists and pedestrians and increase the risk of road accidents	Para 66 to 72

30 A number of other comments were also raised as follows:

- The illuminated advertisement is electricity intensive and contradicts the Council's sustainability objectives.
- Artificial lighting is detrimental to wildlife.

31 Officer response: The above concerns are outside the local planning authority's powers of planning control over advertisement applications, in accordance with Part 1, Section 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

32 Blythe Hill Community Action Group also raised objections, see below:

- The proposal would increase visual clutter along the streetscape and impact the visual amenity of the local area and neighbouring amenity.
- The increased light pollution will impact wildlife.

33 Officer response: The above concerns are outside the local planning authority's powers of planning control over advertisement applications, in accordance with Part 1, Section 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

## 4.2 INTERNAL CONSULTATION

34 The following internal consultees were notified on 31 May 2023.

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35 Highways: no objection, see para 70 for details.

### 4.3 EXTERNAL CONSULTATION

36 The following External Consultees were notified on 31 May 2023.

37 TfL: raised objections, see para 56, 67, 69 and 73 for details.

38 Hopcroft Neighbourhood Forum: no response received.

## 5 POLICY CONTEXT

### 5.1 LEGISLATION

39 The display of advertisements is subject to a separate consent process within the planning system. This is principally set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (Regulations).

40 The power to control advertisements can only be exercised in the interests of amenity or public safety, taking into account the provisions of the development plan, so far as they are material, and any other relevant factors.

41 The provisions of Section 38(6) of the Town Planning and Compulsory Act 2004 Act do not apply to advertisements; however, the policies can be considered where the material is in accordance with the Regulations.

42 'Advertisement' is defined in Section 336(1) of the Town and Country Planning Act 1990 (as amended) as follows:

*“any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the previous provisions of this definition) includes any hoarding or similar structure used or adapted for use, for the display of advertisements, and references to the display of advertisements shall be construed accordingly.”*

### 5.2 MATERIAL CONSIDERATIONS

43 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

44 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

45 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to the aforementioned directions and the test of reasonableness.

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## 5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2023 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

## 5.4 DEVELOPMENT PLAN

46 The Development Plan comprises:

- London Plan (March 2021) (LP)
- Core Strategy (June 2011) (CS)
- Development Management Local Plan (November 2014) (DMLP)

## 5.5 OTHER MATERIAL DOCUMENTS

- Institution of Lighting Professionals Guide PLG05: The Brightness of illuminated advertisements (2014) (ILP)
- Outdoor Advertisements and Signs: A Guide For Advertisers (2007) (MHCLG)
- TfL's Vision Zero Action Plan (2018) (VZAP)

## 6 PLANNING CONSIDERATIONS

47 In deciding whether to approve an advertisement application the LPA can only consider the interests of:

- amenity and;
- public safety

taking into account the development plan (so far as material) and any other relevant factors.

### 6.1 AMENITY

#### *Policy*

48 The NPPF at para 136 states the quality and character of places can suffer when advertisements are poorly sited and designed. Control in the interests of amenity should take account of cumulative impacts.

49 The LP Policy D8(B) and T2(B), CS Policy 15, and DMLP Policy 19, 27, 30 and 35 are all relevant.

50 DMLP Policy 19(1)(g) states planning permissions for advertisements will be refused where they adversely affect the amenity and character of an area.

51 DMLP Policy 27 aims to ensure high-quality lighting to prevent the adverse impact of light pollution on biodiversity and wildlife, local character and residential amenity.

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- 52 DMLP Policy 35 requires public spaces to be designed to be safe, inclusive, accessible, and attractive. Council will require street signage to harmonise with the street scene and minimise visual clutter.

#### *Discussion*

- 53 The main impacts on amenity usually include visual amenity and factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.

#### **Character and appearance**

- 54 The proposed advertisement would replace the existing advertisement display on the flank wall of No. 293 with a 48-sheet digital LED sign in the same position. It would have a width of 6m wide, a height of 3m and a depth of 0.06m and be positioned 5.7m from ground level. The proposed width and height of the advertisement would match the existing advertisement; however, it would have a significantly slimmer profile (60mm compared to 250mm). The proposed advertisement would have a different appearance to the existing one by virtue of having an illuminated digital display. It would also differ from the existing advertisement as it would introduce the sequential display of images. The changes between the images would be instantaneous and in full and would not have any effects that would cause delay or disruption to the change.
- 55 In the Appeal Decision (APP/C5690/Z/18/3198998), the Planning Inspector did not *“consider the digital nature of the display would have a materially harmful effect on the character and appearance of the area, compared to the existing advertisement.”* Since the Planning Inspectorate’s decision in 2018, the London Plan 2021 has commenced. LP Policy D8(B) states development proposals should *“ensure the public realm is well-designed, safe, accessible, inclusive and attractive.”* It further requires lighting, including for advertisements, to be *“carefully considered and well-designed in order to minimise intrusive lighting and infrastructure and reduce light pollution.”* LP Policy T2 is also relevant to the proposal which aims to deliver and maintain high-quality streets that support increased levels of walking, cycling, and public transport use.
- 56 TfL were consulted as the application site is on Stanstead Road (A205) which forms part of TfL’s Road Network. TfL considered the proposal to have an unacceptable impact on visual amenity. TfL raised objections to the proposed illuminated advertisement on the basis that it would not comply with LP Policy T2 as it would not contribute to a high-quality pedestrian environment as a result of increasing visual clutter impacting the streetscape and amenity of street users.
- 57 Officers note that existing non-illuminated advertising has been located on site since at least 2008 therefore, advertisement in this location is an established part of the streetscape. Since 2020, there has been an increase in the number of illuminated advertisements in the vicinity of the site, particularly at the ground-floor shop fronts on Stanstead Road to the east of the site and at the intersection of Ravensbourne Road and Stanstead Road. Since the Planning Inspector’s decision in 2018, the streetscape environment has changed significantly. As such, Officers consider the proposal to be in keeping with the existing townscape and find no reason to disagree with the Inspector’s conclusion, subject to securing all of the Planning Inspector’s conditions in the advertisement consent of the current application.

#### **Amenity**

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- 58 The proposed advertisement would be located adjacent to the property at No. 291. The adjoining two-storey property at No. 291 is set back further in its plot than the subject site (by approximately 5m) and has a hipped roof that sits substantially lower than the roof of the three-storey application property. The underside of the proposed advertisement would sit in line or just above the eaves of No. 291 and would face the pitch of the roof. The proposal would sit perpendicular and above the windows in the front elevation of the upper flat in No. 291. The bay window of No. 291 is set further out than the main front elevation; however, an occupant would have to step into the bay window in order to view the screen above.
- 59 The proposed advertisement would operate at 300cd/m<sup>2</sup> in compliance with Table 1 of the ILP which identifies the luminance level limits for lighting in England. The proposed illumination level would be less than the previous advertisement allowed by the Planning Inspector (APP/C5690/Z/18/3198998), which had a daytime illumination level of 600cd/m<sup>2</sup>. In the Appeal Decision, the Planning Inspector granted consent subject to conditions which included restricting the illumination level to a maximum of 300cd/m<sup>2</sup> at night and the hours of illumination during the hours of 0000-0600.
- 60 In the Appeal Decision (APP/C5690/Z/18/3198998), the Planning Inspector stated they “*did not consider the proposal would have a harmful effect on the amenity of occupiers of No. 291A.*” This statement was supported with consideration of the position of the proposal above the windows of No. 291 and the level of illumination and the display being controlled by condition. The Inspector furthered this by stating conditions “*would also protect the amenity of the occupiers of surrounding residential properties which are situated at a great distance to the application site.*” Officers find that nothing has changed since the Inspector considered this matter and therefore, do not disagree with the Inspector’s conclusion that the siting and nature of the current proposal would not give rise to any significant material impacts upon the living conditions of the adjoining property at No. 291 in terms light spillage, glare, and outlook. Similar to the Planning Inspector’s decision, in order to protect the amenity of neighbouring residents, the application would be subject to the imposition of conditions restricting the luminance of the displays, restricting moving images, and controlling the method of change between adverts.

### **6.1.1 Amenity conclusions**

- 61 Applying the principle of consistency, Officers found no material changes have arisen that would reasonably lead to a different conclusion to that of the Planning Inspector on the appeal APP/C5690/Z/18/3198998. Therefore, Officers are satisfied the proposal would have no materially harmful effect on the character and appearance of the area or the amenity of surrounding occupiers, subject to the imposition of conditions.

## **6.2 PUBLIC SAFETY**

### *Policy*

- 62 The NPPF at para 136 states that control in the public’s safety interests should consider cumulative impacts.
- 63 The LP Policy D8(B), T2(B), CP Policy 14, and DMLP Policy 19 and 27 are all relevant.
- 64 DMLP Policy 19(1)(g) states planning permissions for advertisements will be refused where they adversely impact on public safety.

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## Discussion

- 65 In accordance with Part 3(2)(b) of the Advertisements Regulations, the main factors relevant to public safety include:
- (i) *the safety of persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);*
  - (ii) *whether the display of the advertisement in question is likely to obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air;*
  - (iii) *whether the display of the advertisement in question is likely to hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.*

### **Street user safety and navigation**

- 66 The siting of the adjoining property at No. 291 makes the existing advertisement on the application site highly visible when drivers are moving along Stanstead Road from west to east.
- 67 In their response, TfL made no reference to the previous advertisement consent allowed by the Planning Inspector in 2018. TfL considered the overall impact on public safety and pedestrian/cyclist users' comfort to be unacceptable. TfL's highway safety concerns regarding illuminated adverts relate to the field of the view of the observer, which in this case are drivers and other road users, and the impact brightness may have upon driver distraction. TfL has commented that the proposed digital LED sign would *"increase the risk of collision between motor vehicles and/or cyclists and pedestrians, particularly at night,"* given how bustling the section of Stanstead Road is at the frontage of the application property with a cycle route, bus routes, an on-street parking bay, a vehicle crossover for No. 291 at the junction where vehicles would be turning right. TfL did not provide any evidence to support their concerns (e.g. collision data). TfL's Vision Zero commitment requires them to take a risk-based approach to road danger, making TfL cautious about bright roadside adverts.
- 68 The proposed advertisement luminance level complies with Table 1 of the ILP. Section 5 of the ILP notes that *"media screens that may be effective during the day are likely to exceed the night time luminance limits"*. This section also acknowledges this can be controlled by a system that limits luminance times.
- 69 TfL expects conditions to be secured if the Council is minded to approve the application to reduce the impact of the proposed illuminated advert on public safety. They requested that the sign is not illuminated between 11 pm and 7 am the next morning and that the degree of illumination during the day not exceed 300cd/m<sup>2</sup>. Officers note that TfL's requested restriction on the illumination times is more than the Planning Inspector's condition under the appeal decision APP/C5690/Z/18/3198998 to ensure the illumination times for the advertisement shall not be during the hours of 0000-0600. They also requested limits on the advertisement's display time and effects.
- 70 The Council's Highways Officer also reviewed the application and stated the *"application poses no threat of disruption to the local highway network."*
- 71 The road environment at the front of the application property has not changed since at least 2008. The cycle route, bus routes, speed camera, on-street parking bays, vehicle

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crossover for No. 291, and junction with Carholme Road all existed prior to the Planning Inspectorate's decision in 2018. A number of illuminated advertisements are located in the vicinity of the site that have been in place since 2020. Illuminated signage is part of the established street scene and is not an incongruous addition to the road environment.

72 The previous scheme (DC/17/104674) was not refused on public safety grounds on the basis that TfL's requirements could be conditioned to reduce the potential distraction caused by the illuminated digital advert. The Planning Inspector did not turn their mind explicitly to public safety, nevertheless, many of the conditions imposed by the Inspector are relevant to public safety in line with the above recommendations of TfL. Officers consider the imposition of conditions would minimise the potential for driver and pedestrian distraction on Stanstead Road and uphold public safety. These conditions would be the same as requested by the Planning Inspector and include restrictions on the luminance of the displays, restrictions on moving images, and controls on the method of change between adverts.

#### ***Impact on existing speed camera***

73 TfL also raised concerns that a brightly illuminated advertisement on the application site would *"impact the effective operation of the speed camera on the opposite side of the road."* No evidence was provided by the applicant to demonstrate the proposal would not impact the operation of the speed camera.

74 Officers are aware this speed camera has been in place since 2008. The Planning Inspector did not address the potential impact of the illuminated advertisement on the functioning of the speed camera. Nevertheless, the conditions imposed by the Inspector are relevant as they assist in managing any potential impacts on the operation of the speed camera.

#### **6.2.1 Public safety conclusions**

75 Officers consider the proposal would not worsen the existing Stanstead Road environment where illuminated advertisement displays are part of the established street scene and are not an unexpected addition to the road environment. Similar to the conclusion of the Planning Inspector in the appeal APP/C5690/Z/18/3198998, Officers consider the imposition of conditions would minimise the potential for driver and pedestrian distraction on Stanstead Road. Officers are satisfied the proposal would not result in an unacceptable harmful effect on the safety and useability of the highway and public safety, subject to the imposition of conditions.

## **7 LOCAL FINANCE CONSIDERATIONS**

76 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

77 The weight to be attached to a local finance consideration remains a matter for the decision maker.

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78 Advertisements are not subject to CIL and therefore, this is not a material consideration.

## 8 EQUALITIES CONSIDERATIONS

79 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

80 In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

81 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

82 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

83 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

84 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available

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at: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

85 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

## 9 HUMAN RIGHTS IMPLICATIONS

86 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Article 8: Respect for your private and family life, home and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

87 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.

88 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

89 This application has the legitimate aim of installing a new advertisement. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1: Right to peaceful enjoyment of your property are not considered to be unlawfully interfered with by this proposal.

## 10 CONCLUSION

90 This application has been considered in light of policies set out in the development plan and other material considerations.

91 The proposed advertising is very similar to the advertising that was allowed by the Planning Inspector on 10 July 2018 (APP/C5690/Z/18/3198998). The proposal remains an existing advertising display of the same width and height as the existing advertisement on the application site however, it would have a different appearance based on its slimmer profile, illuminated digital display, and the sequential display of images. Officers support the Planning Inspector's decision that the proposal would not result in unacceptable impacts on the character and appearance of the area or the amenity of surrounding occupiers, or an unacceptable risk to public safety, subject to the imposition of conditions.

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# 11 RECOMMENDATION

92 That the Committee resolve to **GRANT** advertisement consent subject to the following conditions.

## 11.1 CONDITIONS

### 1. Approved plans

The advertisement hereby granted consent shall not be displayed otherwise than in complete accordance with the approved plans below, unless previously agreed in writing by the local planning authority.

289-PA-01; 289-PA-02; 289-PA-03; 289-PA-04 (received 24 October 2023).

**Reason:** To protect the visual amenities of the area and to comply with the terms of the application and DM Policy 19 Shopfronts signs and hoardings of the Development Management Local Plan (November 2014).

### 2. Advertisement conditions

- (a) This consent is granted for a fixed period expiring 5 years from the date of consent.
- (b) 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.
- (c) No advertisement shall be sited or displayed so as to:
  - (i) Endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (ii) Obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or.
  - (iii) Hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- (d) 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.
- (e) 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.
- (f) Where an advertisement is required to be removed under the Town and Country Planning (Control of Advertisement) (England) Regulations 2007, the site shall be left in a condition that does not endanger the public or impair visual amenity.

**Reason:** In accordance with the Town and Country Planning (Control of Advertisement) (England) Regulations 2007.

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### 3. **Illumination levels**

The maximum luminance shall not exceed 300 cd/m<sup>2</sup> and shall fully comply with the recommendations contained in the Institution of Lighting Professionals Technical Report No.5.

**Reason:** In order that the local planning authority may be satisfied that the lighting is installed and maintained in a manner which will not be detrimental to visual amenity and highway safety, to comply with Policy D8, T2 and T4 of the London Plan (March 2021), Policy 15 of the Core Strategy (2011), Policy 19, 27, 30 and 35 of the Development Management Local Plan (November 2014).

### 4. **Hours of illumination**

The advertisement hereby approved shall not be illuminated during the hours of 0000-0600.

**Reason:** To ensure that the advertisement does not prejudice the amenities of the neighbouring occupiers, to comply with Policy D8, T2 and T4 of the London Plan (2021), Policy 15 of the Core Strategy (2011), Policy 19, 27, 30 and 35 of the Development Management Local Plan (November 2014).

### 5. **Advertisement display (time between advertisements)**

The minimum display time for each advertisement shall be 10 seconds. The use of message sequencing for the same product is prohibited and the advertisements shall not include features/equipment that would allow interactive messages/advertisements to be displayed.

**Reason:** To ensure that the advertisement does not prejudice the amenities of the neighbouring occupiers, to comply with Policy D8, T2 and T4 of the London Plan (2021), Policy 15 of the Core Strategy (2011), Policy 19, 27, 30 and 35 of the Development Management Local Plan (November 2014).

### 6. **Advertisement display (interval between display)**

The interval between successive displays shall be instantaneous (0.1 seconds or less), the complete screen will change, there shall be no special effects (including fading, swiping, or other animated transition methods) between successive displays.

**Reason:** To ensure that the advertisement does not prejudice the amenities of the neighbouring occupiers, to comply with Policy D8, T2 and T4 of the London Plan (2021), Policy 15 of the Core Strategy (2011), Policy 19, 27, 30 and 35 of the Development Management Local Plan (November 2014).

### 7. **Advertisement display (special effects)**

There shall be no special effects (including noise, smell, smoke, animation, flashing, scrolling, three-dimensional, intermittent or video elements) of any kind during the time that any message is displayed.

**Reason:** To ensure that the advertisement does not prejudice the amenities of the neighbouring occupiers, to comply with Policy D8, T2 and T4 of the London Plan (2021), Policy 15 of the Core Strategy (2011), Policy 19, 27, 30 and 35 of the Development Management Local Plan (November 2014).

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## 8. Advertisement control

The display panel shall have a default mechanism to switch it off in the event of a malfunction or during periods of maintenance.

**Reason:** To ensure that the advertisement does not prejudice the amenities of the neighbouring occupiers, to comply with Policy D8, T2 and T4 of the London Plan (2021), Policy 15 of the Core Strategy (2011), Policy 19, 27, 30 and 35 of the Development Management Local Plan (November 2014).

## 11.2 INFORMATIVES

### A Positive and Proactive Statement

The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.

### B Installation of advertisement

The footway and carriageway of the A205 Stanstead Road must not be blocked during the installation of the advertisement. Temporary obstructions must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians or obstruct the flow of traffic. All vehicles must only park/stop at permitted locations and within the time periods permitted by existing on-street restrictions. No skips or construction materials shall be kept on the footway or carriageway on the TLRN at any time.

## 12 BACKGROUND PAPERS

- (1) Submission drawings
- (2) Appeal decision (reference: APP/C5690/Z/18/3198998)
- (3) Internal consultee responses
- (4) Statutory consultee responses

## 13 REPORT AUTHOR AND CONTACT

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