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## Appeal Decision

Site visit made on 26 October 2022

**by Sarah Colebourne MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14th November 2022**

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### **Appeal Ref: APP/G4240/Z/22/3303866**

### **1 Hamilton Street, Stalybridge, SK15 1LL**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Wildstone Estates Limited against the decision of Tameside Metropolitan Borough Council.
  - The application Ref 22/00377/ADV, dated 6 April 2022, was refused by notice dated 1 June 2022.
  - The development proposed is the upgrade of existing 48 sheet advert to support digital poster.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary matter**

2. The Regulations require that decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (the PPG) reiterate this approach. Therefore, while I have referred to some of the policies that the Council considers to be relevant to this appeal, these have not been decisive in my determination of this appeal.

### **Reasons**

3. The main issue in this appeal is, therefore, the effect of the proposed advertisement on amenity. The Advertisement Regulations state that factors relevant to amenity include the general characteristics of the locality. The National Planning Policy Framework (the Framework) says that the quality and character of places can suffer when advertisements are poorly sited.
4. The application states that the proposed advertisement would be digital and would have a maximum luminance that does not exceed 100cd/m<sup>2</sup> at night-time in accordance with the guidelines set by the Institution of Lighting Professionals (ILP) Technical Note 5. The maximum brightness would always be within the guidance as set by ILP Technical Note 5 and would be controlled by light sensors to vary the brightness of the screens according to the brightness of the day. During the daytime, the maximum brightness may increase to make the screen visible during bright sunlight. This would ensure that the level of luminance of the advertisements is sensitive to change in daylight from sunrise to sunset and from summer to winter. Only static images (no moving images or flashing lights) would be displayed but the advertisements would be

- capable of changing instantly to display new adverts no more than once every 10 seconds, with no sequencing fading, swiping or merging or images.
5. It would replace an existing 48 sheet (6m by 4m) hoarding, which the appellant says has been in place for at least 13 years, sited on the upper part of the gable end of a two storey, former social club building which faces onto Stamford Street, a busy and well-lit main road of mixed uses. There are a number of commercial uses along this stretch of the road, including a filling station with a shop and café opposite the site which have a number of illuminated signs. Separated from the site by a path along the side of the appeal building is the garden of a detached bungalow at 1 Cumberland Street.
  6. The Council has not objected to the effect on the visual amenity of the wider area and given the commercial nature and number of other illuminated signs, I would agree with that view. However, it has objected to the impact on the visual amenity of the residents of the adjacent bungalow. The appellant says that the nearest window in the bungalow would be some 17m from the proposed advertisement. Whilst the bungalow is sited at an offset angle to the gable end of the appeal site, there are three windows in both the elevation onto Stamford Road and in the elevation facing the garden which would have clear views towards the proposal although I have noted that those appear to be smaller, secondary windows. A larger window in the Stamford Road elevation would have an oblique view of the proposal. More importantly, the advertisement would be seen very clearly from the sitting out area adjacent to the side elevation of the property and from its garden which is separated from the appeal building by only a narrow path and has only a fence and no planting along that boundary.
  7. Even if the existing advertisement benefits from deemed consent as the appellant contends (and I have noted that no enforcement or discontinuance action has been taken), the proposal would introduce changing digital images and illumination at a high level in very close proximity to the garden and some of the windows. Although the appellant has suggested a number of conditions that include the display to be switched off between 2300 hours and 0600 hours and to reduce the level of illumination to 100cd/m<sup>2</sup> during the evening, those conditions would not overcome the significant visual intrusion that would occur during the daytime and would be harmful to the visual amenity of the bungalow's residents.
  8. The proposal would therefore be contrary to the Framework and to development plan policies 1.3 and C1 of the Tameside Unitary Development Plan (2004) which together seek to ensure high quality design that is sensitive to the relationship between buildings and their settings.

### **Other matters**

9. The appellant has said that there would be benefits in terms of sustainable energy, reduced emissions and waste and an increase to business rates but these matters do not outweigh the harm I have identified. Moreover, the Regulations require that I exercise my powers only with regard to amenity and public safety, albeit that benefits may be put forward as other relevant factors.

**Conclusion**

10. For the reasons given above and having regard to all other matters raised, I conclude that the proposal would cause significant harm in terms of amenity and the appeal should be dismissed.

*Sarah Colebourne*

Inspector