

# Planning Committee

5<sup>th</sup> April 2023



<b>Application No.</b>	22/01410/ADV
<b>Site Address</b>	Retail Warehouse, Stanwell Road, Ashford, TW15 3DT
<b>Applicant</b>	Lidl Great Britain
<b>Proposal</b>	Retrospective application for the display of 1 no. 7.5m high illuminated totem sign
<b>Case Officer</b>	Matthew Clapham
<b>Ward</b>	Ashford Town
<b>Called-in</b>	This application has been called in by Councillor Gething for the following reasons: <ul style="list-style-type: none"><li>• Light Pollution</li><li>• Visual amenity</li></ul>

<b>Application Dates</b>	Valid: 11.10.2022	Expiry: 06.12.2022	Target: Extension of time agreed 12.04.2023.
<b>Executive Summary</b>	<p>This application relates to the recently opened Lidl retail store on the former Hitchcock and King unit on Stanwell Road, Ashford. There are no relevant planning constraints.</p> <p>This site has previously been subject to a planning application (20/00780/FUL) for the creation of two Class E commercial units and associated works (to include a Lidl store). An advertisement consent application was also approved for a number of signs under 20/00764/ADV. This application is a retrospective proposal for the siting of a 7.5m high internally illuminated totem sign to the north of the access road. The sign was previously approved on the opposite side of the retail accessway.</p> <p>It is considered that the proposal, which seeks to re-locate an existing approved sign, would not adversely impact upon the character and appearance of the area or result in any adverse impacts or material harm upon the residential amenity of adjoining properties in terms of visual amenity of light disturbance. In terms of highway safety, Surrey County Highways Authority raises no objection to the proposal.</p> <p>The proposal is therefore considered to be acceptable.</p>		
<b>Recommended Decision</b>	Approve the application subject to conditions as set out at paragraph 7 of this report.		

This application was deferred at the Planning Committee on the 11<sup>th</sup> January 2023 to allow the applicant to amend the sign to reduce the height of the totem. A site visit took place between the applicant and two members of the Planning Committee to discuss the next steps. The applicant re-affirmed their view that as there is an extant permission for a sign of identical size and height elsewhere on the site, they are not in a position to reduce its height. This is because the signs are custom made for the permission they have and the costs involved in replacing it or altering it are prohibitive. Furthermore, the panel that is currently unused towards the base of the sign is to be used by the future occupiers of the vacant unit on the site. The applicant has confirmed that they are willing to turn off the sign's illumination an hour earlier at 9pm between Monday and Saturday, with the sign continuing to be turned off at 4pm on Sundays.

## MAIN REPORT

### 1. Development Plan

1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:

- Policy EN1 (Design of new development)

1.2 On 19 May 2022, Council agreed that the draft Local Plan be published for public consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The public consultation for the Pre-Submission Publication version of the Local Plan ended on 21st September and the local plan was submitted to the Planning Inspectorate on 25<sup>th</sup> November 2022.

1.3 The following policy of the draft Spelthorne Local Plan 2022-2037 is of relevance:

- Policy PS2 (Designing Places and spaces)

1.4 At this stage, the policies carry limited weight in the decision-making process of this current planning application.

1.5 National Planning Policy Framework (NPPF) 2021.

### 2. Relevant Planning History

2.1 The site has the following planning history:

20/00764/ADV	Display of 4 no. internally illuminated fascia signs; 3 no. externally illuminated billboard display frames; 1 no. internally illuminated poster display unit and 1 no. 7.5m high internally illuminated Totem sign.	Granted 14.10.2020
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20/00780/FUL	Sub-division of existing retail warehouse, and change of use to create two Class E commercial units, with reconfiguration of the site car park, elevational changes, installation of plant equipment, and other ancillary works.	Granted 12.11.2021
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**3. Description of Current Proposal**

- 3.1 This application relates to the site of a retail warehouse on the eastern side of Stanwell Road, which is currently occupied by the Lidl Superstore. To the rear of the site is the former occupier of the Lidl building, Hitchcock & King, a builders merchant. The Totem sign has already been erected and is located to the north of the access to the site. To the west are residential properties which front onto Station Crescent and whose rear windows and garden areas back onto Stanwell Road. To the south is the railway line and Ashford Station, with residential flats and commercial properties beyond. There are no relevant planning constraints.
- 3.2 This application is a retrospective application for the retention of a 7.5m high and 2.67m wide internally illuminated Totem sign. It was originally approved to be sited on the southern side of the access but has been installed on the northern side.

**4. Consultations**

The following table shows those bodies consulted and their response.

Consultee	Comment
Environment Health (lighting)	No Objection subject to a condition
County Highway Authority	No objections.

**5. Public Consultation**

- 5.1 The Council has received three letters of objection raising the following concerns:
- Visually intrusive
  - Light pollution to windows
  - Unnecessary to be illuminated
  - Sign in incorrect place than that previously approved
  - Stress and anxiety to occupiers and light from signage hurts eyes
  - Unnecessary advertisement – store has corporate branding
  - Larger than other stores elsewhere
  - Environmentally unfriendly – waste of energy

5.2 In addition, one letter of support has been received.

**6. Planning Issues**

- Public safety
- Amenity

## 7.0 Planning Considerations

### Public Safety

- 7.1 The principal issue on public safety are highway matters relating to vehicles and pedestrians. The sign is located on the northern corner of the access road. The County Highway Authority (CHA) was consulted and requested further details regarding visibility splays. Additional details and plans have been submitted and the County Highway Authority has confirmed the following:

*‘The CHA had initial concerns over the proposed totem sign due to its relocation from its originally-consented location, under the planning application ref no. 20/00764/ADV and specifically the potential for reduction of horizontal visibility for vehicles exiting from the Lidl / Hitchcock & King access onto Stanwell Road. The Applicant has since submitted a visibility site plan and photos and justified that there is sufficient horizontal visibility from the junction, and so the CHA is therefore satisfied with the proposed totem sign.’*

- 7.2 The sign does not interfere with the layout of the proposed pavement that is due to be constructed alongside the eastern side of Stanwell Road, adjoining Scott Freeman Gardens. As such, following the comments of the CHA, the proposed sign is considered acceptable on public safety grounds.

### Amenity of neighbouring properties

- 7.3 With regard to the impact on the amenity of neighbouring properties, Policy EN1 states that proposals for new development should demonstrate that they will achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or overbearing effect due to bulk and proximity of outlook.
- 7.4 Paragraph 136 of the National Planning Policy Framework states that *‘The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts’.*
- 7.5 Policy EN1 of the Core Strategy and Policies Development Plan Document states that the Council will require a high standard in the design and layout of new development. Proposals for new development should demonstrate that they will create buildings and places that are attractive with their own distinct identity; they should respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings.
- 7.6 The sign has been located to the north of the access road close to the adjoining Scott Freeman Gardens open space. The sign is identical in size and illumination to that approved under 20/00764/ADV. The nearest residential properties are located to the west, in Station Crescent. While these

properties front onto Station Crescent, they do have a rear outlook and rear amenity areas that back onto Stanwell Road and the location of the sign. The rear of the curtilage of these properties are approximately 11m away at their closest point, with the dwellings themselves being some 40m away. The sign can be seen from the rear windows and gardens areas of these properties and in particular, during the winter months as some trees shed their leaves. Two trees were removed along the side boundary between Scott Freeman Gardens and the retail warehouse site in close proximity to the sign, although this was granted approval in the planning permission for the retail units in order to allow for a revised access and new pavement. As such, the sign would be conspicuous within the street scene and to neighbouring properties. Consequently, there is some harm to the visual amenity of the locality.

7.7 However, in assessing this proposal, it should be taken into account that a sign has been granted approval already, albeit in a location further towards the south, approximately 34m away, but also in a location where it was also visible within the street scene and from the rear of properties in Station Crescent, which is not dissimilar from this siting of the sign under this application.

7.8 In granting the existing approved signage, the report considered that:

*'The signage is visible from some of the nearest residential dwellings on the other side of the railway and partially from those properties in Station Crescent. There is existing signage on a site serving the commercial uses trading on the site.'*

*'The Totem sign is taller than would generally be expected, however, due to the railway embankment, the separation distances to the nearest residential dwellings and the substantial mature tree lines to the north and west, which soften and mitigate its impacts, it is not considered that the totem sign would be detrimental to the character and appearance of the area nor the visual amenity when viewed from the public domain.'*

This conclusion is considered to be a material consideration in assessing this proposal.

7.9 In terms of illumination, the Institute of Lighting Professionals has produced a document relating to the Illumination of Advertisements 'The Professional Lighting Guide – PL05 – The Brightness of Illuminated Adverts'. This sets out various maximum limits for lighting as guidance. It has categorised various areas in terms of maximum levels of illumination, and notwithstanding protected (UNESCO sites) and natural areas (National Parks etc.) varying between Rural, Suburban and Urban. The definition for suburban is '*small town centres or suburban locations*'. This definition is considered reasonable for this location outside of the retail unit, in close proximity to Ashford Town Centre and the Railway Station and located on a classified road with street lighting. This guidance states that for advertisements below 10sqm, the maximum level of illumination should be 600cd/sqm (Candelas per square metre – Candelas per square metre is a recognised measure of brightness. It measures the amount of light emitted in a given direction for a given unit area of the sign surface).

7.10 The applicant has confirmed that the advertisement would be illuminated to a level of 350 cd/sqm. This has been reduced from the previously proposed 455 cd/sqm. In addition, the illumination of the advertisement is to be limited to the

8am opening time of the retail unit on Monday to Saturday with the sign being turned off at 9pm Monday to Saturday – one hour before the store closes and 10am to 4pm on Sunday. In view of these controls in the hours of illumination and respecting the guidance contained in the Professional Lighting Guide and also given that a totem sign already has approval elsewhere on the site, this level of illumination is reasonable and would not give rise to any significant adverse harm to the amenity of adjoining properties.

#### Conclusion

- 7.11 Overall, it is considered that the proposed display of an internally luminated totem sign which has restrictions regarding the level of illumination, would not have any adverse impacts or material harm to either public safety of the amenities of the neighbouring properties or passers-by. Therefore, the proposed siting of the totem sign in this location is considered acceptable.

#### Equality Act 2010

- 7.12 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

#### Human Rights Act 1998

- 7.13 This planning application has been considered against the provisions of the Human Rights Act 1998.
- 7.14 Article 1 of the First Protocol – Protection of property in that every natural and legal person has the right to peaceful enjoyment of his or her possessions (including land).
- 7.15 In respect of Article 1, it is accepted that by granting approval for this proposal this will affect the landowner's property rights however, taking into consideration development plan policies, and the requirements of the Town and Country Planning Act 1990 it is not justified to refuse this application and a fair balance will be stricken between public interest and the individual's right to their land.
- 7.16 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 7.17 Article 8 – Right to respect for a private and family life. This right is important and should be respected but is not guaranteed. The rights have to be balanced against all other material consideration and this will be a planning judgment. In respect of this particular right it was considered that it can't

outweigh importance of having coherent control over town and country planning.

- 7.18 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, officers have concluded on balance that the rights conferred upon the applicant/ residents/ other interested party by Article 6, 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

## **8. Recommendation**

### **GRANT planning permission subject to the following conditions:**

1. No advertisement is to be displayed without the permission of the owner of the site on which they are displayed (this includes the highway authority, if the sign is to be placed on highway land)
2. No advertisement is to be displayed which would obscure, or hinder the interpretation of, official road, rail, waterway or aircraft signs, or otherwise make hazardous the use of these types of transport
3. Any advertisement must be maintained in a condition that does not impair the visual amenity of the site
4. Any advertisement hoarding or structure is to be kept in a condition which does not endanger the public; and
5. If an advertisement is required to be removed, the site must be left in a condition that does not endanger the public or impair visual amenity.

Reasons: All as required by Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. The illuminated lighting fixtures on the sign shall not exceed a surface brightness of 350 candelas/m<sup>2</sup> between 8am and 9pm Monday to Saturday and between 10am and 4pm on Sundays. The illumination shall be switched off outside of these hours.

Reason: In the interests of amenity and protection of nearby residents from potential light nuisance.

7. The development hereby permitted shall be carried out in accordance with the following approved plans: 4415-1002 Revision P03 (Signage Details 03); 4415-1003 Revision P02 (Site Location Plan) and 4415-1003 Revision P04 (Signage Location Plan) received 11.10.2022.

Reason: For the avoidance of doubt and to ensure the development is completed as approved.

8. Notwithstanding planning approval 20/00764/ADV no more than one 7.5m high Totem sign shall be displayed within the planning unit at any one time.  
Reason:- To safeguard the amenity of adjoining properties.

### **Informatives**

1. Any external lighting system installed at the development shall comply with the Institute of Lighting Professionals (ILE) Guidance for the Reduction of Obtrusive Light (January 2020).