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## Appeal Decision

Site visit made on 31 May 2017

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 June 2017**

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**Appeal Ref: APP/C5690/Z/17/3171213**

**Telephone kiosk outside 115 Burnt Ash Road, London SE12 8RA**

- 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 Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Lewisham.
  - The application Ref DC/16/098565, dated 30 September 2016, was refused by notice dated 11 January 2017.
  - The advertisement proposed is an internally illuminated digital panel as integral part of telephone kiosk.
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### Decision

1. The appeal is allowed and express consent is granted for an internally illuminated digital panel as integral part of telephone kiosk outside of 115 Burnt Ash Road, London SE12 8RA as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations in addition to the following conditions:
  - 1) The digital advertisement panel hereby granted consent shall display static images only and the images shall be changed no more frequently than once every ten seconds through a smooth fade. No moving images or special effects shall be shown.
  - 2) The intensity of illumination of the digital advertisement panel hereby granted consent shall be no greater than 280 candelas per square metre during the period between dusk and dawn.

### Procedural Matters

2. The appeal relates to an advertisement to be displayed on a proposed telephone kiosk that would replace two existing kiosks. The Council's Decision Notice refers to the fact that the replacement of the kiosk is outside of the scope of the application for consent to display an advertisement. However, it is unclear from the evidence before me whether the proposed kiosk has the benefit of planning permission. In any event, the appeal has been lodged against the refusal of advertisement consent and therefore my determination has focussed only on the proposed advertisement.
  3. There is some conflict between the Council's Appeal Questionnaire and the Officer Report as to whether or not the appeal site is located within the Lee Manor Conservation Area. The former states that it is within the conservation area and the latter stating that it isn't. The Conservation Area Plan shows the
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site as being within the 'Latest Conservation Area Extension'. Although I have no evidence regarding the Councils assessment of the effect of the proposed advertisement on the character or appearance of the Conservation Area I am nevertheless required to have regard to the statutory duty to consider the effect of the proposals on the designated heritage assets. I address this matter below.

### **Main Issue**

4. The main issue is the effect of the internally illuminated digital panel on the visual amenity of the area.

### **Reasons**

5. The appeal site forms part of the relatively wide pedestrian footway outside of No 115 Burnt Ash Road. It is currently occupied by two telephone kiosks and is located towards the northern end of a parade comprising of predominantly two storey terraced properties having commercial uses on the ground floor and residential uses on the first floor. A hot food takeaway, restaurant and Estate Agent premises are located in close proximity to the site on this side of the road with a public house on the opposite side of the road. The existing illuminated fascia and window advertisement signs in the vicinity provide this part of the parade with a bright and well-lit appearance.
6. The appellant indicates that the existing pair of kiosks would be replaced by a new modern kiosk having an open front to provide improved access for persons with access difficulties. The rear of the kiosk, which would occupy the north elevation, would be provided with an internal digital display panel measuring 1.65m high by 0.928m wide. This would display a sequence of static images, changing no more frequently than every 10 seconds through a smooth fade. The appellant states that illumination would be controlled a through light meter so that the advertising material is visible in the surrounding ambient light, but without being overly bright or causing glare. During darkness, the illumination would be restricted to a maximum of 280 candelas per square metre.
7. The proposed panel would be located in close proximity to a number of retail and commercial units that have significant fascia and display lighting. The proposed illumination levels during darkness would be well within the maximum limit recommended by the Institute of Lighting Professionals for installations within commercial areas. As the display would face southwards towards the central area of the parade it would be seen at a low level within the context of the existing commercial activity and the illuminated signage that already exists.
8. In this setting, views of the proposed advertisement would not be excessive in size nor appear unduly prominent or unacceptably at odds with the extent of existing signage, illumination and visual network that already exists. The sequential changes of the image within the confines of the kiosk would not significantly increase the visual prominence of the advertisement to the extent that demonstrable harm would be caused to amenity. As such the proposed advertisement would not cause unacceptable harm to the visual amenity of the area or be harmful to the character and appearance of the Lee Manor Conservation Area.

9. The Council has also suggested that the increase in width of the proposed kiosk would result in visual clutter. However, the appellant indicates that the proposed kiosk is smaller than an existing single kiosk. In any event, the two kiosks currently occupy a considerable part of the footway and the reduction in one of these units would reduce street clutter rather than add to it.
10. For these reasons, the proposed advertisement would preserve the character and appearance of the Conservation Area as a whole in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would accord with paragraphs 131 and 132 of the National Planning Policy Framework. As a result there would be no conflict with DM Policy 19, DM Policy 30 and DM Policy 35 of the Lewisham Development Management Local Plan 2014. These policies, amongst other things, require advertisements to have a positive relationship with the existing townscape, not adversely affect amenity or the character of an area and minimise visual clutter.

#### *Other matters*

11. The appellant has referred to a number of recent appeal decisions for similar internally illuminated digital panel advertisements within telephone kiosks. However, I do not have full details of the nature of the proposals or the circumstances relating to these appeals. Consequently, I cannot be sure that they are representative of the circumstance in this appeal. In any case, I have reached my own conclusions on the individual merits of the appeal proposal on the basis of the evidence before me.

#### **Conditions**

12. The Council has not suggested any conditions to add to the five standard conditions which are set out in the Regulations. However, in the interests of amenity I consider that two further conditions are required to restrict the intensity of illumination between dusk and dawn and ensure that the digital displays are showing only static images with changes no more frequently than once every ten seconds.

#### **Conclusion**

13. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

*Stephen Normington*

INSPECTOR