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## Appeal Decision

Site visit made on 7 October 2019 by Ben Phillips Bsc Msc

**Decision by R C Kirby BA(Hons) DipTP MRTPI**

**An appointed by the Secretary of State**

**Decision date: 04 December 2019**

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**Appeal Ref: APP/U3935/Z/19/3230116**

**32-33 Regent Street, Swindon, SN1 1JL**

- 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 Nathan Still (on behalf of Infocus Public Networks Ltd) against the decision of Swindon Borough Council.
  - The application Ref S/ADV/19/0236/CHHO, dated 7 February 2019, was refused by notice dated 16 April 2019.
  - The advertisement proposed is the display of a single illuminated sequential display affixed to the frame of the communication hub.
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### Decision

1. The appeal is allowed, and express consent is granted for the display of a single illuminated sequential display affixed to the frame of the communication hub at 32-33 Regent Street, Swindon, SN1 1JL in accordance with the terms of the application Ref S/ADV/19/0236/CHHO, dated 7 February 2019. 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 and the following additional conditions:
  - 1) The intensity of the illumination of the advertisement permitted by this consent shall be within that recommended by the Institute of Lighting Professionals based on the size of the sign and its location, in its Professional Lighting Guide 05 (PLG 05) Brightness of Illuminated Advertisements (or its equivalent in a replacement Guide).
  - 2) The intensity of the illumination of the advertisement shall be no greater than 300Cdm<sup>2</sup> during hours of darkness.
  - 3) No special visual effects of any kind are permitted when any message is displayed or through the transition of one image to another. The displayed image must not include animated, flashing, intermittent lighting designed to give the impression of movement.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matters

3. The Council has expressed concern that the payphone kiosk upon which the advertisement would be displayed would require planning permission. The lawfulness or otherwise of the kiosk is not before me in this appeal under the

Regulations<sup>1</sup>. It is clearly open to the appellant to make a planning application for the kiosk at a later date.

### **Main Issue**

4. The main issue is the effect of the proposed illuminated advertisement on the visual amenity of the area.

### **Reasons for Recommendation**

5. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration where relevant. However, the Regulations, National Planning Policy Framework (the Framework) and advice within the Planning Practice Guidance (PPG) require that decisions on advertisements be made only in the interest of amenity and public safety, taking account of any material factors. In my consideration of this appeal, the Council's policies have not therefore, by themselves, been decisive.
6. Regent Street is a busy, main pedestrianised shopping street in Swindon, where there is a range of advertisement material including 'A' boards, free standing signs, fascia signs and projecting signs, both illuminated and non-illuminated. The proposed illuminated advertisement would be viewed in the context of this busy commercial area, and although the advertisement would not be displayed on a building, its central siting in the street, in line with other street furniture such as bins, benches and lamp posts and its visual separation from nearby shop fronts would ensure that the advertisement would not appear cluttered or harm the quality of the public realm within which it is located. The advertisement would also be visually separate from a similar illuminated advertisement that I have considered at Nos 18-19 Regent Street<sup>2</sup>.
7. I acknowledge that in the hours of darkness that the new advertisement would be more prominent than the existing non-illuminated advertisement, however it would be seen in the context of the surrounding shopfront illumination and commercial street character and would not therefore be visually intrusive, nor overly prominent in the street scene. Moreover, the level of illumination during the hours of darkness could be controlled to ensure that the advertisement was not overly bright in the street scene.
8. Given the above I conclude that the advertisement would not be harmful to the visual amenity of the area. There would be no conflict with the aims of paragraph 132 of the Framework or Policies DE1 and SC1 of the Swindon Borough Local Plan 2026 (2015) and Policy CAAP3 of the Swindon Central Area Action Plan (2009) which, whilst not specifically referring to advertisements, generally require development to respect context and character, contribute to the quality of public realm and be of a high-quality design.

### **Conditions**

9. In addition to the five standard conditions set out in the Regulations, conditions controlling the intensity of illumination are necessary and the visual effects of the advertisement, in the interests of the visual amenity of the area. I have

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<sup>1</sup> Town and Country Planning (Control of Advertisements) (England) Regulations 2007

<sup>2</sup> Appeal Ref APP/U3935/Z/19/3230115

however amended some of the suggested wording provided by the Council and the appellant for clarity.

**Conclusion**

10. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

*B Phillips*

APPEAL PLANNING OFFICER

**Inspector's Decision**

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

*RC Kirby*

INSPECTOR