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# Appeal Decision

Site visit made on 22 May 2023

**by K Williams MTCP (Hons) MRTPI**

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

**Decision date: 15 June 2023**

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**Appeal Ref: APP/W0734/Z/23/3318099**

**New World Payphones Kiosks, O/S 26 Newport Road, Nr Middlesbrough Bus Station, Middlesbrough TS1 5AE**

- 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 New World Payphones against the decision of Middlesbrough Council.
  - The application Ref 22/0741/ADV, dated 15 November 2022, was refused by notice dated 9 February 2023.
  - The advertisement proposed is replacement of existing double telephone kiosk with new telephone kiosk which includes integrated digital advertising display.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The digital advertising display would be integrated within a replacement telephone kiosk approved by the Council under another planning permission<sup>1</sup>. My decision relates to the illuminated digital advertising display integrated within the kiosk only.
3. 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) confirm this approach. Therefore, while I have taken account of the policies that the Council considers to be relevant, these have not been decisive in my determination of this appeal.

## Main Issue

4. The Council has raised no objection in respect of amenity, and I observed nothing which would lead me to dispute this conclusion, subject to the suggested controls on luminance and display. Accordingly, the main issue is the effect of the proposed advertisement on public safety, with particular regard to highway safety.

## Reasons

5. The appeal site is located on the southern side of Newport Road. Commercial in character Newport Road is a busy narrow two-way road with various parking restrictions, road warnings and prohibitive signs. The digital advertising display would be integrated within a replacement telephone kiosk. It would be situated

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<sup>1</sup> Middlesbrough Council planning application reference: 220740/FUL

on the footway close to the pedestrian entrance of Middlesbrough bus station, a signalised pedestrian crossing opposite the Hill Street Shopping Centre and close to the junction of Hill Street.

6. The digital advertising display would display sequential static advertisements, capable of changing every 10 seconds and with instantaneous change between them, which would be illuminated in accordance with the industry guidelines<sup>2</sup>. It would be on the reverse side of the telephone system facing east, thus not visible from entering Newport Road from the junction with Wilson Street.
7. I agree that Newport Road is straight, and visibility is good. However, although the proposal would be visible from the turning point of Newport Crescent there is another large freestanding digital advertisement. This is located a relatively short distance in front of the proposal and would be seen in the same views as it. On closer approach, the digital advertisement display would also be seen in conjunction with the signalised pedestrian crossing and junction with Hill Street, the taxi rank and turning circle.
8. My site visit was at a weekday at mid-morning, and I observed pedestrians crossing at points all along the road, consistent with the observations of the Local Highway Authority (LHA). The signalised junction was in constant use with pedestrians regularly leaving or entering the bus station and shopping centre. The numerous pedestrian movements in combination with the road junctions, numerous road signs, narrow carriageway, street furniture and other digital advertisements results in a complicated and busy road environment.
9. The above will require a high level of concentration from road users including drivers and more vulnerable pedestrians and cyclists. Road users would have to register two competing changing displays within the immediate busy road environment. Notwithstanding this, under such circumstances, even momentary distraction to road users, such as would arise from the proposed sequential advertising of the appeal proposal, would increase the risk of accidents to the detriment of the safe operation of the highway.
10. The PPG<sup>3</sup> states that all advertisements are intended to attract attention and that public safety is less likely to be a problem in commercial centres. Although not on the skyline it does refer to advertisements at points where drivers need to take more care are more likely to affect public safety. This includes junctions and pedestrian crossings as well as when advertisements include illumination or changes of display. As such I am mindful that the LHA have concerns about the digital advertisement display creating a distraction for motorists particularly where there is a signalised pedestrian crossing in such close proximity.
11. I conclude that the position and nature of display, would likely result in a distraction for users of the highway and would lead to the potential for increased conflict between road users. Consequently, it would therefore have a harmful effect on public safety, contrary to the provisions of the Framework and guidance within the PPG, which seek to control advertisements in the interests of public safety.
12. As proposal would also conflict with the Policy DC1 contained within the Middlesbrough Local Development Framework Core Strategy (2008), which seeks to ensure highway safety. For similar reasons it would not accord with

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<sup>2</sup> Institute of Lighting Professionals: The Brightness of Illuminated Advertisements' PLG05, 2015

<sup>3</sup> Paragraph 067 Reference ID: 18b-067-20140306

the guidance within the Middlesbrough Urban Design supplementary planning document (2013) where it refers to public safety.

### **Other Matters**

13. Planning conditions could be used to control the illuminance and frequency of imagery, to turn off the display in the event of malfunction, to prevent moving images and those that resemble road signs and traffic signals, and to ensure smooth transition between sequential images. The appellant has additionally proposed a further reduction in the overnight period. Taking account of the proposal and its context, these measures would not be sufficient to avoid harm to public safety.
14. I have no details before me of the additional tree planting, put forward at the application stage. It is unclear whether this is in respect of the kiosk or the advertisement or dependent upon both. Neither are there any means before me to secure this, and therefore I cannot attribute any weight to this.
15. I note other displays are present on Newport Road and Corporation Road, however these do not appear to be close to pedestrianised crossings. I also note the indication by the appellant that the sign could be used to display public notices. However, given the unacceptable harm to highway safety in this location, these matters have not altered my overall decision.

### **Conclusion**

16. For the reasons set out above, the proposed advertisement would be harmful to public safety. Therefore, I conclude the appeal is dismissed.

*K Williams*

INSPECTOR