



Appeal Decisions

Site visit made on 25 October 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2022

Appeal A Ref: APP/Y0435/W/22/3292060

5 West of main entrance, Silbury Boulevard, Milton Keynes MK9 2AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Martin Stephens, JC Decaux UK Limited against the decision of Milton Keynes Council.
 - The application Ref 21/02294/FUL, dated 23 July 2021, was refused by notice dated 18 January 2022.
 - The development proposed is the replacement and upgrade of an existing illuminated and advertised enclosed telephone kiosk with a multifunctional communication Hub including advertisement display, as illustrated in the attached documentation.
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Appeal B Ref: APP/Y0435/H/22/3292066

5 West of main entrance, Silbury Boulevard, Milton Keynes MK9 2AD

- The appeal is made under 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 Martin Stephens, JC Decaux UK Limited against the decision of Milton Keynes Council.
 - The application Ref 21/02295/ADV, dated 23 July 2021, was refused by notice dated 18 January 2022.
 - The advertisement proposed is the replacement and upgrade of an existing illuminated and advertised enclosed telephone kiosk with a multifunctional communication Hub including advertisement display, as illustrated in the attached documentation.
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Decisions

1. Appeal A is allowed and planning permission is granted for the replacement and upgrade of an existing illuminated and advertised enclosed telephone kiosk with a multifunctional communication hub including advertisement display, as illustrated in the attached documentation at 5 West of main entrance, Silbury Boulevard, Milton Keynes MK9 2AD in accordance with the terms of the application, Ref 21/02294/FUL, dated 23 July 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents relating to Site C, os 502 Virgin Money (Main Entrance) Silbury Blvd: 1:1250 (location plan) ; 1:200 (block plan); Site C proposed (proposed elevation); Proposed Communication Hub Unit (details of unit); Replacement Hub (drawing of

Hub with dimensions) and Site C, Kiosk to be Permanently Removed os Entrance 3 Silbury Blvd (Image of InFocus kiosk to be removed)

- 3) The development hereby permitted shall not be brought into use until the existing InFocus telephone kiosk, as shown on the approved document: 'Site C, Kiosk to be Permanently Removed os Entrance 3 Silbury Blvd, has been permanently removed'.
2. Appeal B is allowed and express consent is granted for the advertisement displays as applied for. The consent is for 10 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 advertisement permitted shall not display any moving images (including animation, flashing, scrolling three dimensional, intermittent or video elements).
 - 2) The interval between advertisements shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including fading, swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction.

Preliminary Matters

3. Although the appellant initially submitted a single application the Council determined it as two separate applications, one for the proposed Hub unit (Appeal A) and the other for the proposed advertisement display (Appeal B) and accordingly issued two separate decision notices.
4. Both appeals relate to the same site and to each other. I have considered each on its individual merits, but as they raise similar issues and to avoid duplication, I have dealt with them in a single decision letter.

Main Issue

5. The main issue for both appeals is the effect of the proposal on highway safety.

Reasons

6. The proposal is for a Hub unit to replace a telephone kiosk. The Hub unit would be part of a network of portals to enable the public to access the digital network without charge when out of home and to complement the existing public use provision of Wi-Fi 4G/5G across the shopping centre.
7. The Hub unit would be about 2.6m in height and approximately 1.3m wide and would occupy a site area of less than 0.50m². The Hub unit would feature on one side a LCD screen used to display commercial images and on the other a smaller LCD touchscreen and defibrillator. For both displays the luminance level would be adjusted via an inbuilt light sensor and limited to a maximum 600Cdm² at night-time. The size of the main screen provides a display area of approximately 1.9m² that would be used for advertising and community messaging.
8. The appeal site comprises part of a larger pedestrianised area to the front of a shopping centre, within this pedestrianised area is the existing walkway, which is not accessible to cyclists and is delineated by different coloured paving.

9. Whilst the walkway is heavily trafficked, this is wide enough to accommodate passing pedestrians, including those that may have prams or visitors using wheelchairs. However, as I observed pedestrians use the walkway and the wider pedestrianised area to the south of this.
10. Whilst the Hub unit would reduce the width of a small section of the walkway, the narrower width of this and the availability of pedestrianised area to the side of it would still allow users to pass one another. As such, the proposal would not present an obstruction to pedestrian movement or unacceptably affect pedestrian safety.
11. Accordingly, in regard to appeal A, I find no conflict with the highway safety aims of Policy CT3 of Plan:MK 2016-2031.
12. The Advertisement Regulations¹ require that advertisements are considered having regard to amenity and public safety.
13. Because of the orientation and location of the Hub unit, its advertisement display would largely be targeted towards pedestrians and to a lesser extent motorists using the nearby parking areas. Because of this and subject to conditions to avoid distraction, the proposed advertisement displays would not unacceptably affect highway safety to the detriment of public safety.

Other Matters

14. The appeal site falls within the setting of the Shopping Building, Midsummer Boulevard, a Grade II Listed Building. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses.
15. Based on its listing, the Shopping Building, Midsummer Boulevard, is designated because of its architectural interest, materials and as a little altered exemplar of outstanding post-war retail development in England.
16. The proposed Hub unit would be in a new location but also seeks the removal of the existing InFocus unit located further east of the appeal site, which could be secured by a condition. This, along with the scale of the wider pedestrianised area and the existence of other street furniture nearby, would allow the proposal to assimilate with the area surrounding the Listed Building without resulting in any unacceptable clutter. As such, the proposal would not harm the setting of the Listed Building.
17. The appeal site forms part of the highway. Accordingly, the developer would be responsible for ensuring that the proposal is undertaken with regard to the relevant highway's processes and consents.

Conditions

18. In respect of appeal A, in addition to the standard timescale condition, I have imposed a condition specifying the relevant plans and documents as this provides certainty.

¹ Town and Country Planning (Control of Advertisements) (England) Regulations 2007

19. To minimise the extent of street furniture in respect of safeguarding the setting of the Listed Building and in the interests of certainty, I have imposed a condition requiring the removal of the existing InFocus telephone kiosk.
20. Appeal B is subject to the five standard conditions set out in the Regulations. I am also attaching two further conditions (1) and (2) to avoid distraction in the interests of public safety. Given that the illuminance of the displays is controlled by a sensor, a condition specifically limiting this is not necessary.

Conclusion

21. For the above reasons, I conclude that both appeal A and appeal B should be allowed.

M Aqbal

INSPECTOR