



Appeal Decision

Site visit made on 9 November 2022

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2022

Appeal Ref: APP/W4705/Z/22/3308935

New World Payphones Kiosk, O/S 199 Barkerend Road, Bradford BD3 9AL

- 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 Ben Porte (New World Payphones) against the decision of City of Bradford Metropolitan District Council.
- The application Ref 22/03060/ADV, dated 11 July 2022, was refused by notice dated 30 August 2022.
- The advertisement proposed was described as '*replacement of telephone kiosk with new telephone kiosk which includes integrated digital advertisement display*'.

Decision

1. The appeal is allowed and express consent is granted for illuminated digital advertisement display integrated within replacement telephone kiosk. 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 digital advertisement display shall not exceed 280 candela per square metre during periods of darkness.
 - 2) The digital advertisement display permitted by this consent shall be switched off between the hours of 00:00 and 05:00.
 - 3) The advertisement shall only show two dimensional static images, shall contain no moving images, animation, video or full motion and no messaging should spread across more than one screen image
 - 4) The advertisement display shall not change more frequently than every 10 seconds and changes between displays shall take place over no more than 0.1 seconds.
 - 5) The advertisement display should have a default mechanism to freeze an advertisement in the event of any malfunction.

Procedural Matters

2. Although the application was initially described in the terms set out in the banner above, the development description in subsequent documentation refers to the proposal as 'illuminated digital advertisement display integrated within replacement telephone kiosk'. This is usefully and accurately more concise and I have determined the appeal accordingly.
3. I am advised that planning permission¹ has been granted separately for the replacement of the existing telephone kiosk with a new telephone kiosk. It is proposed that the digital advertisement display panel to which this appeal

¹ LPA Ref No: 22/03059/FUL

relates would be integral to the kiosk for which planning permission has been granted. I have determined this appeal accordingly, and in the manner described below.

Background and Main Issues

4. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations), the National Planning Policy Framework (the Framework) and Planning Practice Guidance (the Guidance) all make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. The reasons for refusal refer to Core Strategy Development Plan Document (CS) policies DS1, DS3 and DS5. I have taken these policies into account insofar as they relate to amenity and public safety.
5. The main issues in this case are therefore the effects of the proposal upon:
 - Amenity; and
 - Public safety.

Reasons

Amenity

6. The appeal site lies within a wide area of open pavement on the inside of the junction of Barkerend Road and Hendford Drive. The telephone kiosk upon which it is proposed to integrate the proposed advertisement has been granted planning permission¹ separately by the Council.
7. This area of Barkerend Road, around its traffic-light controlled junction with Hendford Drive and Harewood Street, is a busy area heavily influenced by the strident commercial presence of a petrol filling station and retail building and an adjacent retail store. Whilst the telephone kiosk's immediate surroundings on the opposite side of the road to these are more muted and less commercially orientated, it is nevertheless the overriding commercial context of those uses opposite within which the advertisement panel would be experienced.
8. The digital advertisement panel would be located on the kiosk's rear, or west facing, elevation. Its full face would be visible along Barkerend Road from the west, on approach to the traffic-light controlled junction, with more oblique views across it from Hendford Drive and Harewood Street.
9. However, having carefully considered and viewed the proposed advertisement's positioning from these three main approaches, I am satisfied that its surroundings provide sufficient context for it not to appear out of place, out of context or out of character. The Council have clearly already determined that the proposed replacement telephone kiosk would be appropriately sited within the pavement, and the incorporation of this digital advertisement panel would not alter that. I am satisfied therefore that the digital advertisement would not therefore, be an obtrusive element within the street scene or otherwise detract from the character, appearance or visual amenity of the locality.

10. Although the Council assert that the nature of the [hoarding] advertisement would not relate to any of the nearby businesses, the Regulations² state that advertisements should be subject to control only in the interests of amenity and public safety. Unless the nature or content of the advertisement is itself harmful to amenity or public safety, Planning Practice Guidance states that consent cannot be refused because it is considered that the advertisement is, amongst other things, unnecessary. I give this matter limited weight as a consequence.
11. For the reasons I have set out, I am satisfied that the proposed digital advertisement display, to be sited within a replacement telephone kiosk for which the Council have already granted planning permission, could be assimilated into this street scene without causing material harm to the visual amenity and the character and appearance of the area. In so far as they are material to the consideration of amenity, there would be no conflict with Core Strategy Development Plan Document (CSDPD) policies DS1 or DS3 or the National Planning Policy Framework (the Framework) which together seek to secure good design appropriate to local context and high quality places with a strong sense of place.

Public safety

12. It is clear that the area around the appeal site, including Barkerend Road itself and its traffic-light controlled junction with Hendford Drive and Harewood Street, is busy with, during the period of my visit to the site, continuous flows of traffic. I also noted the nearby presence of a primary school on Hendford Drive which, together with the businesses around the junction and public transport and cycle infrastructure, is likely to generate significant pedestrian movements and interaction between motorists, public transport, cyclists and pedestrians.
13. Nevertheless, the panel would be sited on a replacement kiosk positioned adjacent to an existing metal railing fence towards the rear edge of the pavement, thus situated well back from the carriageway itself. The digital advertisement display, as opposed to the interactive display screen and telephony equipment visible within the kiosk from the front, would be on the kiosk's rear, or west, facing elevation. As such, it would provide a backdrop to the traffic signals for traffic approaching from the west, the junction (and its signals) are well-sighted and visible over a long approach distance. However, the junction itself did not strike me as particularly complex and would not require more than a usual level of care and attention for driving in an urban context.
14. Oblique views across the face of the panel for the two roads approaching Barkerend Road at the junction would be possible. However, the extent and visual impact of the advertisement would be limited due to the angle of the installation and the extent to which it would be set away from the junction and its traffic controls. As such, I cannot conclude that the proposal would be an overly distracting feature in this regard.
15. As a consequence, I am satisfied that the proposal would not cause harm to public safety. Although not decisive, there would be no conflict with CSDPD

² The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

policy DS5 and its aims of providing safe and inclusive places or the Framework.

Conditions

16. Whilst the Council have not suggested any further conditions above and beyond the 'five standard conditions' set out in Schedule 2 of the Regulations, the appellant has set out five additional conditions relating to the level of luminance and hours of display, the nature of the advertisements, rate of refresh and malfunction response. To ensure the screens do not cause undue distraction to road users or harm to amenity, I agree that the additional conditions are reasonable and necessary in the interests of public safety and amenity.

Conclusion

17. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

G Robbie

INSPECTOR