



Appeal Decisions

Site visit made on 4 April 2023

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal A Ref: APP/A4710/W/22/3310786

New World Payphones Kiosk, Commercial Street, Halifax HX1 1BA

- 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 Ben Porte (New World Payphones) against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 22/00877/FUL, dated 5 August 2022, was refused by notice dated 5 October 2022.
 - The development proposed is Replacement of existing double telephone kiosk with new telephone kiosk which includes integrated digital advertising display.
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Appeal B Ref: APP/A4710/H/22/3310787

New World Payphones Kiosk, Commercial Street, Halifax HX1 1BA

- 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 Calderdale Metropolitan Borough Council.
 - The application Ref 22/10018/ADV, dated 5 August 2022, was refused by notice dated 5 October 2022.
 - The advertisement proposed is described on the application form as 'Replacement of existing double telephone kiosk with new telephone kiosk which includes integrated digital advertising display'.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The Council adopted a new Local Plan on 22 March 2023 meaning that relevant policies contained within it can be afforded full weight. The Council has provided copies of the most relevant policies. The appellant has also been provided with an opportunity to comment on this matter. I have therefore determined this appeal based on the relevant newly adopted policies.
4. The two appeals directly relate to the same appeal site and to each other. I have considered each on its individual merits, however as they raise similar issues, I have combined these cases in a single decision letter.
5. The relevant Regulations regarding advertisements stipulate that control may only be exercised in the interests of 'amenity' and 'public safety'. In determining the appeal, the Council's development plan policies are not determinative, but I have taken them into account as a material consideration in determining appeal B.

6. In accordance with the statutory duty set out in section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('The Act') I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Halifax Town Centre Conservation Area (CA).
7. In accordance with the statutory duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have given special regard to the desirability of preserving the ABC Cinema, the Victoria Theatre or their settings or any features of special architectural or historic interest which they possess.
8. For appeal B the Council have described the development as 'Illuminated digital advertisement display integrated within replacement Telephone Kiosk.'. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

Main Issue

9. The main issue for both appeals is the effect of the proposed development on the character and appearance and visual amenity of the area.

Reasons

10. The proposals would be located on the pavement in front of the former ABC Cinema, a Grade II listed building. There is also a Grade II listed building on the other side of Commercial Street opposite the proposals' location, namely the Victoria Theatre. The proposals would be clearly visible from both directions on the street particularly from the footpaths closest to them but also from those on the opposite side of the street.
11. I note that the removal of existing telephone boxes would be an improvement and that the proposals' design would be more streamlined and contemporary. However, even so, these telephone boxes are currently located next to the listed building, adjacent to a pillar and are therefore in a less visually prominent location than the proposals would be. Consequently, I find that they would have an adverse visual impact overall as they would be situated in this more visually prominent location on the footpath close to the road. Accordingly, they would have a negative effect on the settings and significance of designated heritage assets resulting in less than substantial harm.
12. Having regard to paragraph 202 of the *National Planning Policy Framework* (the Framework), the proposal would provide potential public and social benefits such as access to the telecommunications network, shelter, and less anti-social behaviour. However, these benefits would not be of sufficient weight to outweigh the harm to the CA and listed buildings to which I must attach great weight. Therefore, there is no clear and convincing justification for the proposal as required by paragraph 200 of the Framework.
13. I therefore conclude that the proposal would neither preserve nor enhance the character or appearance of the CA. I also conclude that in accordance with the clear expectations of the Planning (Listed Buildings & Conservation Areas) Act 1990, anticipating the development permitted, the settings of the listed buildings would not be preserved. I also therefore conclude that the proposed developments would materially harm the overall character and appearance of the area.

14. Therefore, in relation to appeal A, the proposal would conflict with the relevant requirements of policies HE1, BT1 and RT5 of the adopted Calderdale Local Plan (CLP).
15. Furthermore, with respect to appeal B and for the above reasons, I conclude that the proposal would also materially harm the visual amenity of the area. In accordance with the Regulations, I have considered the provisions of the development plan so far as they are relevant to appeal B. Policies BT1 and RT5 of the CLP seek to protect visual amenity and so are relevant in this case. As I have concluded that the proposed advertisement would harm visual amenity, it would consequently also conflict with these policies.
16. Moreover, for similar reasons both proposals would also not comply with paragraphs 112 and 130 of the Framework, which seek well designed places where development would be sympathetic to local character.

Other Matters

17. In support of the appeal proposal the Appellant has cited a similar scheme that was granted planning permission (Ref 19/10022/ADV). However, I do not have all the details of this case before me or the circumstances which led to that decision being taken. In addition, given that the approved scheme was for a wall mounted LED screen, I consider that the circumstances applicable to this scheme are not the same as those presented in this case, which I have determined on its own merits.
18. Chapter 10 of the Framework identifies that an advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being. It also seeks to support the expansion of electronic communications networks. However, these considerations are not without regard to the Framework as a whole.
19. Furthermore, whilst the proposed kiosk would provide some shelter from the elements, allow access for those with mobility impairment and improve natural surveillance, thereby reducing the potential for anti-social behaviour, such as littering, given its size, these merits are only of limited weight in favour of the proposals. Consequently, they do not outweigh the great harm the proposals would cause to the significance of the nearby heritage assets, nor do they outweigh the harm to the character and appearance of the wider area.

Conclusion

20. For the reasons set out above I conclude that both appeals should be dismissed.

C Coyne

INSPECTOR