



Appeal Decisions

Site visit made on 8 June 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2023

Appeal A Ref: APP/W0734/H/23/3318641

Paving on Newport Road, O/S Units 1-3 Newport Road, Middlesbrough TS1 1LE

- 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, on behalf of New World Payphones, against the decision of Middlesbrough Council.
 - The application Ref 22/0746/ADV, dated 16 November 2022, was refused by notice dated 9 February 2023.
 - The advertisement proposed is installation of new telephone kiosk which includes integrated digital advertising display.
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Appeal B Ref: APP/W0734/W/23/3318638

Paving on Newport Road, O/S Units 1-3 Newport Road, Middlesbrough TS1 1LE

- 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, on behalf of New World Payphones, against the decision of Middlesbrough Council.
 - The application Ref 22/0745/FUL, dated 16 November 2022, was refused by notice dated 9 February 2023.
 - The development proposed is installation of new telephone kiosk which includes integrated digital advertising display.
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Decision

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

Preliminary Matters

3. There are two appeals on this site, one against the refusal of planning permission and the other against the refusal of advertisement consent. They are intrinsically linked and raise similar issues. To avoid repetition, while considering each on its merits, I have dealt with both in a single decision letter.
4. In respect of Appeal A, 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 material considerations. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal the Council's policies have not therefore, by themselves, been decisive.

5. In respect of both appeals, in the banner heading I have referred to the description of the development from the application form, omitting that which is unnecessary to accurately describe the appeal proposals.

Main Issues

6. The main issues in respect of Appeal A are the effects of the proposed advertisement on (i) the visual amenity of the area and (ii) public safety, with particular regard to the free flow of pedestrian movement and CCTV coverage.
7. The main issues in respect of Appeal B are the effects of the proposed development on (i) the character and appearance of the area and (ii) public safety, with particular regard to the free flow of pedestrian movement and CCTV coverage.

Reasons

Visual amenity / Character and appearance

8. The appeal site is located on a pedestrianised street, within the town centre. It is in a highly visible location on a main thoroughfare. The street is primarily lined with ground floor retail uses and commercial buildings. Notwithstanding the existing street furniture, its pedestrianised nature gives this part of the street an otherwise open and spacious character.
9. At the time of my site visit, I observed that there are various forms of freestanding vertical signage along Newport Road, both within and outside the pedestrianised area. These include digital advertisement boards, highway signage and directional signs.
10. Additionally, within the setting of the appeal site there are various other elements of street furniture, including bollards, bike stands, litter bins, utility cabinets, seating and large planters. There are also two telephone kiosks and a freestanding ATM unit further along the road. This part of the street is also lined by other vertical features including lighting columns, with projecting banners, and trees.
11. The side profile of the proposed kiosk is relatively slimline and open, though the width of the unit is similar in width to a conventional telephone kiosk. Given its orientation and opaque nature, it would be a notable feature in views along the street in both directions. Due to its location, it would interrupt the consistent line of tree planting and other narrow vertical structures in this part of the street and would detract from the otherwise open space around their minimal footprints.
12. I recognise that this type of kiosk is not uncommon in such an urban setting, and that a digital advertising display may be acceptable in principle in this area. However, the proposed kiosk's siting and orientation in relation to existing features, combined with the proliferation of street furniture and other highway structures in this area would appear unduly obtrusive and create visual clutter. This would have a deleterious effect on the character and appearance of the area.
13. My attention has been drawn to several other decisions in other local authority areas across the country for similar development. Only limited details of each of these are before me and so I cannot draw any meaningful comparisons with

the appeal proposals. In respect of the appeal decision referred to¹, I can see from the decision that this was a linked appeal with 4 other advertisement proposals, each of which would replace an older style telephone box in each location. This appears to be materially different to the proposals before me and, ultimately, each case must be considered on its individual merits. These therefore do not lead me to a different conclusion on this main issues.

14. In respect of Appeal B, I therefore conclude that the proposals would unduly harm the character and appearance of the area. In this regard, it is contrary to Policies CS5 and DC1 of the Core Strategy Adopted February 2008 (the Core Strategy) and Policy REG20 of the Regeneration Development Plan Document Adopted February 2009 (the DPD). These policies, among other provisions, seek to ensure proposals enhance the best characteristics of the built environment, are well integrated, take account of the layout of the development and its relationship with the surrounding area, and are complementary and do not harm the principal function of the area.
15. The proposals also conflicts with Middlesbrough's Urban Design Supplementary Planning Document (SPD) Adoption Version January 2013 in this regard. The SPD advises over cluttering should be avoided, and that street furniture should be integrated or combined where possible and consider the surrounding development to provide a unified and coherent public realm. It is also contrary to Paragraph 136 of the National Planning Policy Framework (the Framework), which indicates that the quality and character of a place can suffer when advertisements are poorly sited and designed.
16. In respect of Appeal A, as an integral part of the proposed kiosk I conclude that the proposed advertisement would unduly harm the visual amenity of the area. I have taken into account the policies of the development plan, the Framework and local guidance so far as they are material, and where identified the scheme would conflict with the policies and guidance referred to above in this respect.

Public safety

17. The appeal site sits close to the entrance to the pedestrianised zone. As set out above, there are numerous elements of street furniture, signage and other highway structures in this area. Running along the street, there is a line of street trees, lighting columns, utility cabinets and bollards. The appeal proposals would be sited within this linear arrangement. There is also a secondary row of seating and planters adjacent.
18. At the time of my site visit the area was moderately trafficked by pedestrians, though I recognise the number of pedestrians will fluctuate throughout the day. The street in this location is wide however, with no vehicular traffic. Within the central part of the street and either side of the rows of street furniture there therefore remains ample space for pedestrians to pass.
19. Given the arrangement of street furniture in the vicinity of the site, pedestrians walking along the street are primarily directed to the more open areas in the centre or on its edges, avoiding the appeal site. Pedestrians crossing from one side of the street to the other do have to pass through the line of street furniture and other obstacles. However, the orientation of the proposed kiosk

¹ Appeal Ref: APP/R5510/Z/16/3157043

combined with its relatively slimline profile would assist in ensuring it is not unduly obstructive for pedestrians in this location.

20. Concerns have also been raised by the Council in respect of the effect of the proposed kiosk on the line of sight for CCTV cameras in the vicinity, and their ability to monitor the town centre. In particular, the Council contend that a blind spot would be created where there is cycle parking nearby. However, no further details in respect of this matter have been provided.
21. I observed cycle parking stands and CCTV cameras within the vicinity of the site. However, the evidence does not indicate which cameras would be affected or to what extent. No compelling information on the effectiveness of these cameras in improving public safety and reducing crime or the fear of crime, nor how the proposed kiosk would have a deleterious effect on this, has been provided. It has therefore not been demonstrated that the proposed kiosk would increase crime, or the fear of crime, to the detriment of public safety.
22. In respect of Appeal B, I therefore conclude that the proposals would not have an unduly harmful effect on public safety, with particular regard to the free flow of pedestrian movement and CCTV coverage. I have therefore not identified any conflict with Policies CS5 and DC1 of the Core Strategy and REG20 of the DPD in this regard. These policies, among other provisions, seek to remove barriers to movement within the town, create a safe environment, and take account of the impact upon the capacity of existing and proposed transportation infrastructure.
23. I have also found no conflict with the SPD in this regard, which advises that connections must be considered for pedestrians, people should be unrestricted by street furniture and other obstructions or barriers, and routes need to be safe with respect to crime.
24. In respect of Appeal A, as an integral part of the proposed kiosk, I conclude that the proposed advertisement would not have an unduly harmful effect on public safety, with particular regard to the free flow of pedestrian movement and CCTV coverage. I have taken into account the policies of the development plan and local guidance so far as they are material, and where identified the scheme would not conflict with the policies and guidance referred to above in this respect.

Other Matters

25. I recognise that the proposals may form part of a wider strategy by the appellant to rationalise the provision of kiosks within the town centre and is associated with the removal of a kiosk elsewhere. In addition, the appellant has offered to plant a tree in a location to be agreed with the Council for every kiosk proposed for upgrade. However, the removal of an existing kiosk or planting of a tree elsewhere would not overcome the identified harm to the visual amenity and character and appearance of the area surrounding the appeal site. In any event, there is no formal mechanism before me, such as an executed legal agreement, to secure either.
26. The applications were preceded by pre-application advice, which the appellant contends deemed the premise of such a strategy acceptable in principle. However, I must deal with the appeals based on their planning merits and this does not therefore lead me to a different conclusion on the main issues.

Moreover, the advice provided was clear that any such strategy must be balanced against a proliferation of advertisements and highlighted the Council's efforts to declutter the footway on main thoroughfares into the town centre

27. The Council advise they are embarking on public realm improvements in the town centre, including removal of existing street furniture, to improve pedestrian flow and connectivity, which they contend the appeal proposals would conflict with. However, no further detail of this work has been provided, and so I cannot be sure how the appeal proposals would affect it. This has therefore had no bearing on the outcome of the decisions, and I have dealt with the appeals based on current circumstances.
28. While the proposals may be compliant with other provisions of the development plan or Framework, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposals.

Conclusion

29. The appeal proposals would have a harmful effect on the visual amenity and character and appearance of the area. While I have not identified any harm in respect of public safety or other relevant matters, I find that the proposals would be contrary to the development plan taken as a whole, as well as the Framework and the Regulations to control advertisements for the reasons set out above.
30. Set against this, it would provide enhanced electronic communication and telephone services, wayfinding capabilities, public information messaging and location services to the public.
31. However, in the circumstances of this appeal, I consider that these benefits do not outweigh the harm arising from the proposals or the development plan conflict. Accordingly, the material considerations in this case do not indicate that the proposals should be determined other than in accordance with the development plan.
32. For the reasons given above I conclude that the appeals should be dismissed.

Ryan Cowley

INSPECTOR