



Appeal Decisions

Site visit made on 6 June 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2023

Appeal A Ref: APP/W0734/W/23/3318323

**New World Payphones Kiosk, O/S BBC Tees, Broadcasting House,
84 Newport Road, Middlesbrough TS1 5JA**

- 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 of New World Payphones against the decision of Middlesbrough Council.
 - The application Ref 22/0743/FUL, dated 15 November 2022, was refused by notice dated 10 February 2023.
 - The development proposed is replacement of existing telephone kiosk with new telephone kiosk which includes integrated digital advertising display.
-

Appeal B Ref: APP/W0734/H/23/3318456

**New World Payphones Kiosk, O/S BBC Tees, Broadcasting House,
84 Newport Road, Middlesbrough TS1 5JA**

- 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 of New World Payphones against the decision of Middlesbrough Council.
 - The application Ref 22/0744/ADV, dated 15 November 2022, was refused by notice dated 10 February 2023.
 - The advertisement proposed is replacement of existing telephone kiosk with new telephone kiosk which includes integrated digital advertising display.
-

Decision

1. Appeal A is dismissed, and Appeal B is dismissed.

Preliminary Matters

2. As set out above, there are two appeals on this site. However, the proposed development and the proposed advertisement are intrinsically linked and raise similar issues. Therefore, to avoid duplication, I have dealt with the two schemes together. As indicated in the banner headings above, the appeals are subject to separate legislative requirements. In the case of Appeal B, the Regulations require that decisions are made only in the interests of amenity and public safety. Accordingly, while I have taken account of the relevant development plan policies, they have not been decisive in my determination of Appeal B.

Main Issues

3. The main issues in respect of Appeal A are the effects of the proposed development on the character and appearance of the area and on highway safety.
4. The main issues in respect of Appeal B are the effects of the proposed

advertisement on amenity and public safety.

Reasons

Character and appearance and amenity

5. The proposed telephone kiosk would be located at the edge of the pavement nearest to the cycle lane on Newport Road. It would be closer to the junction with Brentall Street than the existing kiosk, which would be removed if the appeal was allowed. The surrounding area has a mixed-use character which includes commercial uses. The kiosk would be seen by motorists, pedestrians and cyclists from numerous vantage points on Newport Road, Wilson Street and Brentall Street.
6. The proposal would form part of the group of street furniture in the vicinity of the site including traffic lights, road signs, lamp posts, railings, litter bins and a pole mounted cylindrical advertisement. From all vantage points, the kiosk would be seen as a typical urban roadside feature amongst other street furniture. Owing to its small scale, it would have a relatively low-key visual effect within the context of the existing functional and unobtrusive street furniture. Moreover, the modern, open design with a matt black finish would ensure a high-quality development which would be a visual improvement to the existing kiosk.
7. The existing kiosk is not spaced-out from other street furniture, being located adjacent to a bus stop, litter bin and road sign. Nevertheless, in this open wide street the street furniture is not unduly prominent in views. As such, even though the proposed kiosk would be close to the existing pole mounted advertisement, it would not visually merge with it and it would not therefore appear incongruous or dominant in the streetscape. Moreover, as the proposal would replace the existing kiosk there would be no numerical increase in street furniture.
8. The advertisement would be modest in size, fixed at street level, illuminated and capable of rotating static digital advertisements every 10 seconds. It would be seen in the context of a variety of other modestly sized advertisements close to the site, including mounted cylindrical and shop fascia signs. While there is a general absence of illuminated advertisements, the mounted cylindrical advertisement adjacent to the appeal site has an incorporated light column and therefore the proposed advertisement would not be a novel feature in this location.
9. Considering the existing features and the general urban context, the proposed advertisement would not be unusual and it would not be detrimental to the amenity of the area. Moreover, planning conditions could be imposed to ensure the display was not overly bright or intrusive for amenity reasons.
10. Therefore, I conclude that the proposed development would not harm the character and appearance of the area. It would accord with policies CS5 and DC1 of the Middlesbrough Core Strategy (2008) (MCS) which, amongst other things, require high quality proposals that are visually well integrated. Furthermore, I conclude that the proposed advertisement would not harm amenity and therefore it would not conflict with the above mentioned policies.

11. The proposal would also be in line with guidance in Middlesbrough's Urban Design Supplementary Planning Document (SPD) (2013) relating to well-designed public spaces which should be attractive and uncluttered.

Highway and public safety

12. The proposed kiosk and advertisement would be close to the junction of Newport Road and Brentall Street which serves Middlesbrough Bus Station and where cyclists are brought off the highway to a dedicated cycle lane that runs alongside the pavement on Newport Road. There is also a toucan crossing nearby on Newport Road.
13. The proposal would be located further away from the toucan crossing on Newport Road and it would have a smaller footprint than the existing kiosk. It would be sited to encourage users to leave the kiosk away from the cycle lane and the proposal's open design would increase accessibility for those with disabilities which is a clear benefit of the scheme. Nevertheless, in being located close to the junction with Brentall Street, where cyclists are moving onto the cycle lane, the proposal would reduce visibility between pedestrians and cyclists.
14. While the pavement is relatively wide, the proposal would not be located centrally but on the side nearest the cycle lane. It seems likely that if pedestrians were to walk around it, for example to avoid someone leaving the kiosk, they would step into the cycle lane which would increase the potential for collisions between pedestrians and cyclists. Irrespective of the design of the cycle path, the proposed kiosk, in being closer to the junction, introduces street furniture to a more sensitive location, where cyclists are leaving the highway to join the cycle lane. While in a similar location on the side of the pavement, the existing kiosk is not as close to the junction and so does not undermine highway safety in the way the proposal would.
15. The Planning Practice Guidance¹ states that all advertisements are intended to attract attention, but 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. While visibility along Newport Road is good, the changing illuminated display close to the junction would have the potential to distract motorists and other road users at a section of highway where concentration is required.
16. The advertisement would not obscure any road signs or the signal heads of the toucan crossing, nor would it be visible to users of the toucan crossing, however it would be a distraction to cyclists and motorists on approach to it. This would be at a section of the road where buses would be pulling out of and crossing into the bus station on Brentall Street, where motorists would be concentrating on which lane they need to take and where cyclists are joining the cycle lane.
17. The distraction to road users would be exacerbated when the adjacent pole mounted illuminated advertisement was in use. Moreover, while there is little evidence in relation to traffic incidents in the area, nevertheless it is a well-used section of road, and the proposal has the potential to result in conflict.

¹ Paragraph 067 Reference ID: 18b-067-20140306

The imposition of conditions to control the illumination levels and changing of images of the proposed advertisement would not adequately address the harm to public safety. Even if the advertisement was not allowed, the kiosk would still harm highway and public safety, therefore both elements are unacceptable.

18. Therefore, I conclude that the proposed development would harm highway safety, in conflict with policies CS5 and DC1 of the MCS which, amongst other things, include a requirement for proposals to contribute to achieving the removal of barriers to access and movement within the town and have no impact on highway safety. It would also be contrary to advice in the SPD relating to ease of movement. As the proposed development would harm highway safety, it therefore follows that the proposed advertisement would harm public safety.

Conclusion

19. In respect of Appeal A, the proposed development would not harm the character and appearance of the area, but it would harm highway safety.
20. In respect of Appeal B, the proposed advertisement would not harm amenity, but it would harm public safety.
21. For the reasons given above, and having regard to all other matters raised, I conclude that Appeal A should be dismissed, and Appeal B should be dismissed.

F Harrison

INSPECTOR