



Appeal Decisions

Site visit made on 16 December 2024

by **Chris Couper BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th February 2025

Appeal A Ref: APP/B4215/W/24/3348391

Pavement outside Carding Building, Whitworth Street, Manchester M1 3NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ben Porte (New World Payphones) against the decision of Manchester City Council.
 - The application Ref is 139711/FO/2024.
 - The development proposed is described as 'removal of existing New World Payphones red telephone box south of Sackville Gardens (Whitworth Street) and installation of new digital communications kiosk and ancillary advertisement outside Carding Building on Whitworth Street'.
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Appeal B Ref: APP/B4215/Z/24/3348393

Pavement outside Carding Building, Whitworth Street, Manchester M1 3NR

- 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 Manchester City Council.
 - The application Ref is 139712/AOH/2024.
 - The advertisement proposed is described as 'removal of existing New World Payphones red telephone box south of Sackville Gardens (Whitworth Street) and installation of new digital communications kiosk and ancillary advertisement outside Carding Building on Whitworth Street.'
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Decisions

Appeal A Ref: APP/B4215/W/24/3348391

1. The appeal is allowed and planning permission is granted for the removal of the existing New World Payphones red telephone box south of Sackville Gardens (Whitworth Street) and the installation of a digital communications kiosk outside Carding Building, in accordance with the application Ref: 39711/FO/2024, 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: Promap site location plan, New World Payphones perspective views, and drawing numbers PY4056/001, PY4056/005 and PY4419-051-006.
 - 3) No development shall take place until the telephone box south of Sackville Gardens on Whitworth Street has been removed and the footpath reinstated.

- 4) Prior to the kiosk being brought into use, a Noise Management Plan detailing volume control measures shall be submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the approved plan.
- 5) Prior to the kiosk being brought into use, a management plan shall be submitted to, and approved in writing by, the local planning authority to demonstrate how the unit will be maintained to ensure agreed noise and light levels are maintained and not exceeded, including details of remote monitoring and control, how the operator is alerted if any fault is detected, and details of what action is taken where a fault is identified or reported, including response times. The kiosk shall thereafter be managed in accordance with the approved plan.
- 6) The development hereby approved shall be entirely removed from the land on which it is situated as soon as it is no longer maintained in reasonable working order or operated as a telecommunications service, and the land shall be made good using materials to match the surrounding pavement materials in size, texture, colour and detail within two calendar months of the unit ceasing function.

Appeal B Ref: APP/B4215/Z/24/3348393

2. The appeal is dismissed.

Application for costs

3. An application for costs was made by Mr Ben Porte (New World Payphones) against Manchester City Council. This is the subject of a separate decision.

Background and Procedural Matters

4. The proposal before me is part of New World Payphones' stated strategy to rationalise and upgrade its estate in Manchester. I am dealing with appeals relating to kiosks with ancillary advertisements at six other locations in the city, but have dealt with each on its particular merits.
5. I refer to the different cases as Appeal A and Appeal B. I have dealt with each appeal on its individual merits, but to avoid duplication both proposals are considered together in this decision. Both appeals concern the same proposal for a kiosk. Notwithstanding the descriptions in my banner, which are taken from the application forms, Appeal A seeks planning permission for the kiosk itself, whereas Appeal B seeks advertisement consent for the digital display on one of its faces.
6. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 set out that powers shall be exercised only in the interests of amenity and public safety, taking into account the provisions of the development plan, in so far as they are material; and any other relevant factors.
7. In accordance with s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the 1990 Act'), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. This applies in respect of the consideration of whether to grant planning permission (Appeal A), and to advertisement applications and appeals (Appeal B) in so far as it relates to the consideration of amenity.

8. Having regard to s66(1) of the 1990 Act, the duty to have special regard to preserving a listed building or its setting does not apply to applications for advertisement consent (Appeal B), although factors relevant to amenity include the presence of features of historic, architectural, cultural or similar interest.
9. In relation to Appeal B, the Council has raised no dispute on the matter of public safety. Based on the evidence provided, and from what I have seen during my visit, I am satisfied that there is no substantive issue in this respect. Therefore, the proposal under Appeal B has been assessed solely in relation to amenity.
10. Finally, I have had regard to the latest version of the National Planning Policy Framework, which was published in December 2024 ('Framework').

Main Issues

11. The main issue in Appeal A is:

- the effect on the proposal on the character and appearance of the area, including on the significance of the Whitworth Street Conservation Area, and the setting of listed buildings.

The main issue in Appeal B is:

- the effect of the proposal on visual amenity.

Reasons

Appeal A

Character and appearance

12. The telephone box which would be removed, and the site of the proposed kiosk, both fall within the Whitworth Street Conservation Area ('WSCA'). I observed that the WSCA is characterised by substantial buildings, many from the Victorian and Edwardian eras, often constructed in red brick and with significant architectural detailing and embellishments. This gives the area an imposing sense of grandeur.
13. The existing telephone box sits at the end of Sackville Gardens, close to substantial buildings, including Regency House, the Institute of Science and Technology, and the Shena Simon Sixth-Form College – all of which are Grade II listed. The telephone box is small in scale and fairly discrete being sited at the back edge of the pavement next to a low wall. In helping to de-clutter this part of the streetscene, its removal would have a slight positive benefit on the setting of those designated heritage assets, and on the character and appearance of the WSCA.
14. The proposed kiosk would be sited outside the relatively modern Carding Building, in an area where there are fewer listed buildings compared to the existing telephone box. Its black powder coated steel finish would respect the black perforated panels on the lower floors of the Carding Building, and its contemporary appearance would not look out of place against the backdrop of that large, modern structure. At just under 2.5 metres high it would be slightly taller, and it would be slightly wider, but less deep, than the box it would replace. Its design, with partially open or glazed sides, would limit its perceived bulk.
15. The nearest listed building, Regency House, is on the same side of the street, a little way to the east. Consequently, the proposed kiosk would generally only be

- seen together with the corner of that building in longer distance views, where its fairly restrained, simple form and finish would not compete with that heritage asset.
16. The kiosk would be located close to the edge of this fairly wide stretch of pavement, between a narrower area to the west where there is a loading bay, and broadly in line with cycle hire stands to the east. Other than bollards and a few street signs, this stretch of the pavement is reasonably free from street furniture. In that context, and given that an existing telephone box would be removed, albeit further down Whitworth Street, the proposal would not give rise to a significant sense of clutter.
 17. The Council states that the proposal would also undermine its broader efforts to de-clutter and regenerate the public realm across the city centre, as summarised in the comments from its Neighbourhood Team and Growth and Development Directorate in the appendices of its statement. However, as I understand it, the Street Furniture Guidance Strategy to which the latter refers has not yet been published or endorsed as a planning strategy. Consequently, I have given it very little weight.
 18. Thus, irrespective of the appellant's offer to plant trees along this stretch of the pavement, I conclude that the proposed kiosk would not harm the character and appearance of the area, that the significance of the WSCA would be preserved, and that the setting of the listed buildings at Regency House and the Institute of Science and Technology would not be harmed.
 19. Amongst other things and in general terms, policies EN 1, EN 3, SP 1, CC 9 and DM 1 of the Manchester Core Strategy 2012 ('MCS') and policies DC18 and DC19 of the Manchester Unitary Development Plan 1995 ('MUDP') seek good design which has regard to local character, taking account of matters including siting, layout, form, massing, materials and detail; and which preserves or enhances heritage assets such as conservation areas and listed buildings, including their setting. For the above reasons, the proposal would not conflict with their approach, nor with the Framework's stance in sections 12 and 16 regarding the need for development to be sympathetic to local character and history, and to avoid harm to the significance of designated heritage assets unless there is clear and convincing justification.

Appeal B

Visual amenity

20. The Planning Practice Guidance ('PPG') sets out that in assessing amenity, the local characteristics of the neighbourhood should be considered and if, for example, the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would need to consider whether it is in scale and in keeping with those features¹.
21. Unlike the telephone box to be removed, there would be a digital advertising display on the proposed kiosk's western face. Notwithstanding commercial uses in many of the properties, I observed on my visit that there are few advertisements along this stretch of Whitworth Street. There are no digital displays or freestanding advertisements in the immediate vicinity, and signage on the buildings is generally minimal and restrained. This helps to ensure that the grand buildings, which make a significant contribution to the WSCA's significance, are the area's main focus.

¹ ID: 18b-079-20140306

22. The proposed digital display would cover most of the kiosk's western face. With its illumination, and its frequently changing content, with static advertisements changing at 10 second intervals, it would draw-the-eye, and would appear visually prominent and incongruous. It would introduce an overtly commercial character into this part of the streetscene, which would be at odds with its prevailing ambiance. Looking eastward along Whitworth Street, the advertisement would be seen together with historic buildings beyond, including Regency House and the Institute of Science and Technology, where its illuminated, digital, sequential content would compete with their attractive facades in streetscene views.
23. Whilst I observed digital displays on Whitworth Street further to the west, beyond the junction with Princess Street, and to the east at the corner with Fairfield Street, they are in a different parts of the streetscene, close to busy junctions, where the prevailing character is different. Neither those examples, nor the others cited by the appellant elsewhere in the city, including a BT Street Hub further away on Aytoun Street, justify the introduction of this advertisement in this location.
24. Whilst I have noted the appellant's dissatisfaction with the Council's handling of the application, which he considers was at odds with its pre-application advice, I have dealt with the scheme before me on its merits. For the above reasons, having regard to its setting, the character of nearby buildings, and the few advertisements in the area, the proposed illuminated digital display would be detrimental to visual amenity within this part of the streetscene, and it would harm the character and appearance of the WSCA.
25. In reaching my decision, I have taken into account MCS policies EN 1, EN 3, SP 1, CC 9 and DM 1, and MUDP Policies DC15, DC18 and DC19. Whilst not determinative, in so far as they seek to protect amenity, they are material in this case. Given that I have concluded that the proposal would harm visual amenity, it would not accord with their approach, or with the stance at paragraph 141 of the Framework which sets out that the quality and character of places can suffer when advertisements are poorly sited and designed.

Conditions and Conclusions

Appeal A

26. The proposal would not harm the character and appearance of the area. The appeal is therefore allowed. Turning to the matter of conditions, the first and fifth conditions suggested by the Council at part 9 of its statement relate to the proposed advertisement. I have considered the other suggested conditions against the Framework's tests, making minor adjustments in the interests of clarity and precision.
27. I have imposed the standard time limit for commencement and, in the interests of certainty, a condition citing the approved drawings. In the interests of the character and appearance of the area, a condition is necessary requiring that the existing telephone box is removed. As this is clearly stated to be part of the proposal in the appellant's statement, and forms part of the description of the development, it is not necessary to have this pre-commencement condition agreed.
28. My condition No 4, is necessary in order to control noise emissions from the kiosk, in the interests of the character of the area.

29. As part of the planning application, a Management Plan was submitted detailing, amongst other things, weekly physical inspections, cleaning and maintenance checks, and measures to control anti-social behaviour. However, it does not detail how the remote management system referred to in the Specification Document would operate or what the response times would be. My condition No 5, which is also imposed in the interests of the character and appearance of the area, therefore requires the submission of a management plan, and requires the kiosk to be maintained in accordance with it.
30. Finally, my condition No 6 is also necessary in the interests of the character and appearance of the area.

Appeal B

31. Whilst the proposed advertisement would be acceptable in terms of public safety, it would have a harmful effect on visual amenity. The appeal is therefore dismissed.

Chris Couper

INSPECTOR