
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: 05 February 2025

Appeal A Ref: APP/B4215/W/24/3348832

Public telephone kiosk outside 27 to 29 King Street West, Manchester M3 2PN

- 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 New World Payphones against the decision of Manchester City Council.
 - The application Ref is 139737/FO/2024.
 - The development proposed is described as 'removal and replacement of existing red telephone box with single black digital communications kiosk and ancillary advertisement'.
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Appeal B Ref: APP/B4215/H/24/3348833

Public telephone kiosk outside 27 to 29 King Street West, Manchester M3 2PN

- 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 New World Payphones against the decision of Manchester City Council.
 - The application Ref is 139738/AOH/2024.
 - The advertisement proposed is described as 'removal and replacement of existing red telephone box with single black digital communications kiosk and ancillary advertisement'.
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Decisions

Appeal A Ref: APP/B4215/W/24/3348832

1. The appeal is allowed and planning permission is granted for the removal and replacement of the existing red telephone box with a single black digital communications kiosk, outside 27 to 29 King Street West, Manchester M3 2PN in accordance with the application Ref: 139737/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 PY4419-051-005.
 - 3) 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.
 - 4) 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.

- 5) 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/H/24/3348833

2. The appeal is allowed and express consent is granted for a single black digital communications kiosk and ancillary advertisement in accordance with the terms of the application, Ref 139738/AOH/2024. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in Schedule 2 of the 2007 Regulations, and the following additional conditions:
 - 1) In the hours of darkness, the advertisement display luminance shall be no greater than 600cd/m² in accordance with the recommended maximum night time luminance value set out in Table 10.4 within the Institution of Lighting Professionals - Professional Lighting Guide (PLG 05) 'Brightness of Illuminated Advertisements including Digital Displays' (2023) (or its equivalent in a replacement guide) in cd/m².
 - 2) In daylight hours, the advertisement display luminance shall be controlled in order to reflect ambient light conditions (to ensure it is neither too bright or too dull), and shall at all times be no greater than the recommended maximum daytime luminance values set out in Table 10.5 within the Institution of Lighting Professionals - Professional Lighting Guide (PLG 05) 'Brightness of Illuminated Advertisements including Digital Displays' (2023) (or its equivalent in a replacement guide) in cd/m².
 - 3) There shall be no special visual effects of any kind during the time that the advertisement is displayed or on transition between displays/images. The displayed image shall not include animated, flashing, scrolling, intermittent or video elements, and the transition between successive images shall not include fading, swiping or other animated transition method.
 - 4) The minimum display time for each piece of content on the digital display screen shall be 10 seconds. The interval between each piece of content on the digital display screen shall take place over a period no greater than 1 second. Should a fault be detected or reported with the screen or advertisement, the screen will be programmed to automatically switch to a blank screen with black background, or to freeze to a single advertisement.

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 Parsonage Road 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 site is prominently located close to the corner of King Street West and St Mary's Parsonage, with the pedestrianized Trinity Square to the south. The area has a commercial character, with nearby uses including offices, shops, bars, cafes and restaurants. This gives it a lively ambiance, including an evening-time economy.
13. The buildings around the square are mixed in terms of their style, form and proportions. They include the Grade II listed Masonic Temple on the opposite side of Trinity Square and, much closer to this side, a former warehouse, workshop and showroom at 31 and 33 King Street West (including 3 Smithy Lane) which are also Grade II listed. The official list entry¹ describe the latter as rare surviving examples of early commercial architecture dating from the 1840s.
14. The Council has not provided me with a conservation area character statement for the Parsonage Road Conservation Area. However, on the basis of my visit, and having regard to the description in the Planning Design and Heritage Statement ('PDHS'), the juxtaposition of large buildings from different ages, in a mix of styles and different forms, the tree-lined open space at Trinity Square, and the lively commercial environment, all contribute to its significance. I understand that the St Mary's Parsonage Strategic Regeneration Framework 2020 ('SRF') also aims for the district to achieve an identifiable and memorable character through the appropriate use of materials and features.
15. The proposed kiosk would replace a rather tired-looking telephone box in the same location. Its black powder-coated steel finish would give it a restrained, but contemporary appearance; and its partially open or glazed sides would limit its perceived bulk. 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. Thus, having regard to its context with tall, typically three or four storey buildings nearby, it would not appear as an imposing or dominant feature in the streetscene.
16. The nearest building, at 27 to 29 King Street West, is located at the back edge of the pavement. It is a fairly functional and unremarkable twentieth century structure. Planning permission has been granted for its demolition, and the erection of a fourteen storey structure and the refurbishment of the listed building behind it to provide a mix of commercial uses at ground floor² ('the consented scheme'). I understand that the consented scheme involves public realm improvements, including the removal of the existing telephone box on this site.
17. I have few details before me of the consented scheme, and no cogent information to indicate when it may take place. However, as this is a busy environment, with existing and proposed ground floor commercial uses nearby, the proposed kiosk would not be at odds with the area's general ambiance; and this contemporary feature would not appear incongruous.

¹ List Entry Number: 1282988

² Ref: 135028/FO/2022 and 135029/LO/2022

18. Given that 31 and 33 King Street West (including 3 Smithy Lane) are off-set slightly to the side and rear of the site, the proposed kiosk would not be prominent in views of those listed buildings, and the Masonic Temple is a significant distance away on the opposite side of Trinity Square.
19. There is a limited amount of nearby street furniture, including a small junction box, a road sign and a lamp post. However, the kiosk would be positioned close to the carriageway on a wide section of the pavement, in line with that lamp post. Consequently, and as it would replace an existing telephone box of a broadly similar size (albeit one that may be removed as part of the consented scheme), notwithstanding the SRF objectives, the scheme would not give rise to a significantly cluttered appearance in this streetscene.
20. 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.
21. Whilst I have had regard to a previously allowed appeal for a replacement kiosk on this site³, there have been changes in circumstances since that decision, including the evolving site context due to the consented scheme; and the proposal considered by that Inspector did not include an advertisement.
22. Both principal parties also refer to decisions involving kiosks elsewhere in the city, including in conservation areas and close to listed buildings as listed at paragraph 8.20 of the Council's statement. However, I have dealt with this proposal in this location on its planning merits. Irrespective of the appellant's offer to plant a tree, for the above reasons I find that it would not harm the character and appearance of the area, that the significance of the Parsonage Road Conservation Area would be preserved, and that the setting of the listed buildings at Masonic Temple and 31 and 33 King Street West (including 3 Smithy Lane) would not be harmed.
23. Finally, given that the kiosk would be sited near the pavement edge broadly in line with existing street furniture, and that there would be just under 3.5 metres between it and the nearest building, I am not persuaded that it would hinder pedestrians or make it significantly harder for blind or partially sighted persons to navigate.
24. 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, and which preserves or enhances heritage assets such as conservation areas and listed buildings, including their setting.
25. 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 give great weight to the conservation of designated heritage assets and to avoid harm to their significance unless there is clear and convincing justification.

³ APP/B4215/W/18/3195987

Appeal B

Visual amenity

26. 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 features⁴.
27. I observed that many of the nearby commercial uses have fascia signs or other signage associated with their respective businesses, some of which are illuminated. There is also a double-sided digital display near the centre of Trinity Square, and a BT Hub with integral displays has been given permission, but not implemented, close to this site⁵. Given that context and the presence of shop fronts, bars and cafes, along with street-lighting, this is a well-lit, vibrant area.
28. The telephone box which would be removed does not feature an advertisement. Unlike it, the proposed kiosk would have a digital display. At just over 1.6 metre x 0.9 metre that display would cover most of its western face, and its static images would change at a frequency of once every 10 seconds.
29. The proposed advertisement would be fairly prominent approaching from the west and north-west, where it would be seen against the backdrop of the commercial buildings and signage on the eastern side of Trinity Square, with the listed building at 31 and 33 King Street West off-set to the side. Notwithstanding its size, in the context of this busy commercial setting and the evening-time economy, and given the presence of other nearby advertisements, including digital displays, this one, with its illumination and sequential content, would not jar with the surrounding environment, including features of historic, architectural and cultural interest. Consequently, it would not harm the visual amenity of the area, and the character and appearance of the Parsonage Road Conservation Area would be preserved.
30. In reaching my decision, I have had regard to decisions referred to by the principal parties involving digital displays elsewhere in the city, but I have considered this proposal in this location on its merits. I have also 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. As I have concluded that the proposal would not harm visual amenity, it would accord with their approach, and it would not be at odds with 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

31. I have considered suggested conditions against the Framework's tests, making minor adjustments in the interests of clarity and precision. The Council's first and sixth suggested conditions for the planning appeal relate to the proposed advertisement.

⁴ ID: 18b-079-20140306

⁵ Ref: 130567/FO/2021 and 130568/AOH/2021

32. I have imposed the standard time limit for commencement and, in the interests of certainty, a condition citing the approved drawings. As those drawings, along with the submitted Specification Document, clearly set out the details of the proposal, the Council's second suggested condition requiring the submission of further details and samples of materials is unnecessary.
33. My condition No 3 is necessary in order to control noise emissions from the kiosk, in the interests of the character of the area. 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 4, which is 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.
34. Finally, my condition No 5 is also necessary in the interests of the character and appearance of the area.
35. For the above reasons, the scheme would not harm the character and appearance of the area, and the appeal is allowed.

Appeal B

36. The proposed advertisement would be acceptable in terms of public safety, and it would not have a harmful effect on visual amenity. The consent is for 5 years and is subject to the five standard conditions as set out in the Regulations.
37. I have considered additional conditions, having regard to the Council's and the appellant's suggestions, including the comments at paragraphs 24 to 26 of the PDHS, and the model conditions set out in the Institution of Lighting Professionals - Professional Lighting Guide (PLG 05) 'Brightness of Illuminated Advertisements including Digital Displays' (2023), which is referred to by both principal parties.
38. In the interests of visual amenity and public safety, I agree with both parties that conditions are necessary to control the intensity of illumination, the transition between advertisements, and display intervals. Finally, as I have no cogent evidence to indicate that the proposed display is likely to be unacceptable after five years, I have not imposed the Council's suggested condition requiring its removal at the end of that period.
39. For the above reasons, the appeal is allowed.

Chris Couper

INSPECTOR