
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/24/3348706

Pavement outside 121 Oxford Road, Manchester M1 7DU

- 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 139727/FO/2024.
 - The development proposed is described as 'installation of single black digital communications kiosk and ancillary advertisement'.
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Appeal B Ref: APP/B4215/H/24/3348707

Pavement outside 121 Oxford Road, Manchester M1 7DU

- 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 139728/AOH/2024.
 - The advertisement proposed is described as 'installation of single black digital communications kiosk and ancillary advertisement'.
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Decisions

Appeal A Ref: APP/B4215/W/24/3348706

1. The appeal is allowed and planning permission is granted for a single black digital communications kiosk on the pavement outside 121 Oxford Road, Manchester M1 7DU, in accordance with application Ref: 139727/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 PY4056/005 and PY4419-051-007.
 - 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/24/3348707

2. The appeal is allowed and express consent is granted for a single black digital communications kiosk and ancillary advertisement on the pavement outside 121 Oxford Road, Manchester M1 7DU in accordance with the terms of the application, Ref 139728/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. Having regard to Appeal B, the Council's decision does not allege that the proposed advertisement would harm 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.
7. Finally, I have had regard to the latest version of the National Planning Policy Framework, which was published in December 2024 ('Framework').

Main Issues

8. The main issue in Appeal A is:
 - the effect on the proposal on the character and appearance of the area.The main issue in Appeal B is:
 - the effect of the proposal on visual amenity.

Reasons

Appeal A

Character and appearance

9. The proposed kiosk would be located on the pavement along a busy part of Oxford Road, which is an arterial route leading to the city centre. This stretch of the highway frontage contains commercial units, including take-aways, shops and offices, and is close to university buildings. It is an area with a high footfall.
10. I understand that the section of the pavement where the kiosk would be located has been previously enlarged. At around 1.1 metre wide, the proposed kiosk would occupy a relatively small proportion of its roughly 4.6 metre total width. It would be sited towards the carriageway edge, broadly in line with a lamp post just to the south, and a post box slightly further to the north. Other than those features, there is relatively little street furniture in the immediate vicinity, although in the wider area I observed features including refuse bins, bicycle stands, further lamp posts and street trees.

11. At just under 2.5 metres high, the kiosk would be slightly taller, and it would be slightly wider, but less deep, than a traditional phone box; but its design, with partially open or glazed sides, would limit its perceived bulk, and its scale would be much smaller than the buildings along this part of the frontage, which are predominantly two storeys tall. Given its context and fairly modest dimensions, the proposed kiosk would not give rise to an unduly cluttered appearance.
12. The kiosk's simple, contemporary style, with a black powder coated steel finish, would not look out of place next to the diverse shop fronts nearby with their varied facing materials and colour schemes. As a result of its context, siting and scale, the kiosk would not appear as an overly dominant feature to pedestrians using the pavement.
13. I observed the tree planting and cycle paths that have been provided along this part of Oxford Road; and I understand that telephone boxes situated to the front of Nos 125 and 115, along with various 'A-boards', have been removed as part of efforts to declutter the footway. I also note that there is planning permission for a new library building next to All Saints Park, on the opposite side of Oxford Road¹.
14. However, for the above reasons, I do not consider that this proposed kiosk in this commercial location would undermine efforts to uplift the appearance of the area, and improve and regenerate the public realm.
15. The Council states that the proposal would also undermine its broader efforts to declutter 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.
16. I have no reason to disagree with the Council's assessment that the setting of designated heritage assets would be preserved. Irrespective of the appellant's offer to plant a tree, I find that the proposal would not harm the character and appearance of the area.
17. Amongst other things and in general terms, policies SP 1, EN 1 and DM 1 of the Manchester Core Strategy 2012 ('MCS') seek good design, having regard to matters such as siting, layout, scale, form, massing and materials; and to have regard to the impact on the character of the surrounding area. For the above reasons, the proposal would not conflict with their approach, nor with the Framework's stance in section 12 regarding the need for development to be visually attractive and sympathetic to local character and history.

Other matters

18. The Council's statement asserts that the proposal would impact the flow of traffic along this busy section of the pavement, although it has not provided any detailed evidence on the issue. Given that the kiosk would be sited close to the carriageway edge, broadly in line with existing trees, lamp posts and cycle stands, and that there would be a roughly 3 metre gap between it and the shop fronts, I do not consider that it would create a significant obstacle to pedestrians.

¹ Ref: 138424/FO/2023

Appeal B

Visual amenity

19. 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 features².
20. The commercial units along this part of the Oxford Road frontage display a colourful range of illuminated fascia signs or projecting signs associated with their respective businesses, along with signage in their shop windows. This is therefore a busy, vibrant and well-lit area, and a part of the city where pedestrians and occupants of passing vehicles experience an array of advertising at ground floor level. As pointed out by the appellant, there are also existing freestanding digital displays with sequential content fairly nearby on the western side of Oxford Road, either side of the Mancunian Way overpass.
21. In the context of this vibrant commercial area, the proposed digital display, which would be virtually below a street lamp, perpendicular to the road and at street level, and with static images which would change on rotation every 10 seconds, would not appear out of place. Having regard to the advice in the PPG, I do not consider this to be an area with particular scenic, historic, architectural or cultural features which would be harmed by the proposal.
22. For the above reasons, notwithstanding the Council's efforts to regenerate and de-clutter the area, the proposed digital display would not harm visual amenity. In reaching my decision, I have taken into account MCS policies SP 1, EN 1 and DM 1, and Manchester Unitary Development Plan 1995 policy DC15. 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

23. 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.
24. 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.
25. 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

² ID: 18b-079-20140306

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.

26. Finally, my condition No 5 is also necessary in the interests of the character and appearance of the area.
27. Subject to the above conditions, the proposal would not harm the character and appearance of the area, and the appeal is therefore allowed.

Appeal B

28. 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.
29. I have considered additional conditions, having regard to the Council's and the appellant's suggestions, including the comments at paragraphs 22 to 24 of the Planning Design and Access Statement, 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.
30. In the interests of visual amenity and public safety – with particular regard to the need to avoid causing a distraction to drivers along the busy Oxford Road, 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.
31. For the above reasons, the appeal is allowed.

Chris Couper

INSPECTOR