



Appeal Decisions

Site visit made on 16 January 2025

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

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Appeal A Ref: APP/B4215/W/24/3347777

Outside 3 to 10 Piccadilly, Manchester M1 3BN

- 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 139687/FO/2024.
 - The development proposed is described as 'removal and replacement of existing red double telephone kiosks with single black digital communications kiosk and ancillary advertisement'.
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Appeal B Ref: APP/B4215/Z/24/3347778

Outside 3 to 10 Piccadilly, Manchester M1 3BN

- 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 139688/AOH/2024.
 - The advertisement proposed is described as 'removal and replacement of existing red double telephone kiosks with single black digital communications kiosk and ancillary advertisement'.
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Decisions

Appeal A Ref: APP/B4215/W/24/3347777

1. The appeal is allowed and planning permission is granted for the removal and replacement of the existing red double telephone kiosks with a single black digital communications kiosk, outside 3 to 10 Piccadilly, Manchester M1 3BN in accordance with the application Ref: 139687/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 PY4056/003, PY4056/005 and PY4419-051-001.
 - 3) No development shall take place until the telephone kiosks on drawing No PY4419-051-001 have 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.

Appeal B Ref: APP/B4215/Z/24/3347778

2. The appeal is allowed and express consent is granted for the removal and replacement of the existing red double telephone kiosks with a single black digital communications kiosk and ancillary advertisement in accordance with the terms of the application, Ref 139688/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, including their setting. 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 setting of the Stevenson Square 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 located on Piccadilly, which is a main thoroughfare linking Piccadilly Gardens and Manchester Piccadilly railway station. The context here is commercial, with nearby uses including shops, cafes and restaurants. The four to five storey high, ornate buildings on the opposite side of Piccadilly at Nos 69 to 75 and 77 to 83 are Grade II listed. According to the official list entry they date from around the 1870s, are in an eclectic style and finished in a palette of sandstone ashlar with polished granite and stucco. That side of the road, and the land beyond, falls within the Stevenson Square Conservation Area.
13. There are two bus shelters on the pavement close to the site to the north-west, each of which has a double-sided advertisement perpendicular to the road, along with nearby lamp posts and bollards. There are also two rather tired-looking telephone boxes, which are rather awkwardly positioned towards the centre of the pavement, and which the proposed kiosk would replace.
14. In contrast to those existing telephone boxes, the proposed kiosk would be sited much closer to the carriageway edge, where it would better align with the bus shelters, bollards and lamp posts. Its footprint would be significantly smaller than the combined footprint of the two telephone boxes it would replace. Consequently, although it would be marginally taller than those boxes, the scheme would result in a reduction in the amount of clutter.
15. Moreover, its black powder-coated steel finish would give it a restrained, but contemporary appearance, which would respect the tall, modern buildings on this side of the road, and would reflect the colour of some nearby street furniture and the frame of a nearby building. Its partially open or glazed sides would limit its perceived bulk. Thus, having regard to its context, along with its size and siting compared to the existing boxes, the proposed kiosk would not appear as an imposing or dominant feature in the streetscene.
16. As the kiosk would be on the opposite side of the wide road compared to Nos 69 to 83 Piccadilly, and given its limited scale and the presence of other street furniture in the vicinity, having regard to the test in the 1990 Act, the setting of those designated heritage assets would not be harmed. For similar reasons, the scheme would not harm the significance of the Stevenson Square Conservation Area.
17. I have considered the Council's plans for the transformation and regeneration of Piccadilly Gardens and its environs, with the aim of creating an outstanding public space. However, I have few details of those proposals, and Piccadilly Gardens is located some distance away to the north-west. Consequently, I do not consider that this modest scheme in this location would conflict with those efforts; and I have no cogent reason to reach a different overall conclusion to the Inspector who previously allowed a kiosk to replace the two telephone boxes on this site¹.
18. 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

¹ Appeal Ref: APP/B4215/W/18/3195978

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. In any event, the replacement of two boxes with one kiosk would contribute to that stated aim.

19. Given that the kiosk would replace two existing telephone boxes which are positioned more centrally on the pavement, and that it would broadly align with other nearby street furniture, I am not persuaded that it would hinder pedestrians or make it significantly harder for blind or partially sighted persons to navigate. Finally, as this open-sided structure would replace two enclosed kiosks, I do not consider that it would lead to additional antisocial behaviour.
20. 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. 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.

Appeal B

Visual amenity

21. 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.
22. Unlike the telephone boxes which would be removed, which do not feature advertisements, 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 south-eastern face, and its static images would change at a frequency of once every 10 seconds.
23. Although the display would be fairly prominent approaching along Piccadilly from the south-east, it would be seen in the context of a wide range of other advertisements in this overtly commercial area. They include fascia and hanging signs on the retail units, many of which are illuminated. There is also a double-sided digital display on this side of Piccadilly close to its junction with Chatham Street, and just around the corner from here on Portland Street is another kiosk with a digital display and a defibrillator.
24. 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 frequently changing content, would not jar with the surrounding environment; including features of historic, architectural and cultural

² ID: 18b-079-20140306

interest, such as the historic buildings on the opposite side of this wide road. Consequently, and having regard to cumulative impacts, the proposal would not harm the visual amenity of the streetscene, or the character and appearance of the adjacent Stevenson Square Conservation Area.

25. 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 appeal 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

26. I have considered suggested conditions against the Framework's tests, making minor adjustments in the interests of clarity and precision. I have imposed the standard time limit for commencement and, in the interests of certainty, a condition citing the approved drawings.
27. In the interests of the character and appearance of the area, a condition is necessary requiring that the existing telephone kiosks are 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 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. For the above reasons, the scheme would not harm the character and appearance of the area, and the appeal is allowed.

Appeal B

31. 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.
32. 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.

33. 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. For the above reasons, the appeal is allowed.

Chris Couper

INSPECTOR