



Appeal Decisions

Site visit made on 17 February 2025

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2025

Appeal A Ref: APP/L2250/W/24/3354763

Land Outside 61 Sandgate Road, Folkestone CT20 1RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Thomas Johnston of New World Payphones against the decision of Folkestone and Hythe District Council.
 - The application Ref is 24/1278/FH.
 - The development proposed is the installation of 1 no. new communication Kiosk with integrated advertising display.
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Appeal B Ref: APP/L2250/W/24/3354764

Land Outside 61 Sandgate Road, Folkestone CT20 1RY

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr Thomas Johnston of New World Payphones against the decision of Folkestone and Hythe District Council.
 - The application Ref is 24/1327/FH.
 - The advertisement proposed is the installation of 1 no. new communication Kiosk with integrated advertising display.
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Decisions

Appeal A Ref: APP/L2250/W/24/3354763

1. The appeal is dismissed.

Appeal B Ref: APP/L2250/W/24/3354764

2. The appeal is dismissed.

Procedural Matters

3. There are two appeals relating to the site, one against a refusal of planning permission and the other against a refusal of advertisement express consent. They are intrinsically linked as one concerns the kiosk unit upon which an advertisement would be displayed. Both appeals raise similar issues. Whilst considering each appeal on its own merits this decision letter considers both appeals in one.
4. A revised version of the National Planning Policy Framework (the Framework) has been published since the applications were determined by the Council. I have had regard to the revised Framework in reaching my decision.

Planning Policy: Appeal A

5. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis. I have had regard to the policies of the development plan and the Framework only in so far as they are a material consideration relating to matters of siting and appearance.

Planning Policy: Appeal B

6. The provisions under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) require the local planning authority to assess the proposed development solely on the basis of amenity and public safety, taking into account the provisions of the development plan, so far as they are material, and any other relevant factors.

Main Issues

7. In respect of both appeals the local planning authority has not raised concern with regard to public safety.
8. The main issues relating to Appeal A are the effect of the kiosk on siting and appearance, those being the character and appearance of the area including cumulative impacts, and, Appeal B the amenity of the advertisement, that being visual amenity.

Reasons

9. The site is located within a pedestrian shopping area within the town centre. There are retail units at street level with other uses above. The area hosts a commercial character with existing street furniture within the vicinity of the site. This street furniture includes lampposts, cycle racks, seating area, trees, bollards, sculpture and restaurant enclosed outdoor seating area. There is other temporary street furniture, such as, A-frame signage. Nonetheless, the site is currently an area of open pavement that forms part of a wide pedestrian street within the town centre.
10. Advertisements in this shopping parade relate to retail fascias and projecting signs above existing shopfronts with only a small number of these being illuminated. The advertisement would be seen against the backdrop of this shopping area within the town centre.
11. The kiosk would be positioned at an open pavement part of the pedestrianised town centre. It would therefore have a prominent siting within the streetscape. The kiosk would be of black painted steel and be open-fronted. The kiosk would be a large structure and appear more akin to an advertising panel rather than a traditional red telephone box. There are no other kiosks of a similar nature within the locality. Furthermore, there are no kiosk digital displays of the size proposed in the area.
12. The kiosk to some extent would replicate a telephone box in that it would host a public telephone. Nonetheless, the size of the kiosk structure appears to be led by the LED screen, which is a large and visually dominant feature of the structure.

Whilst described as a kiosk, the structure would appear more akin to an advertisement panel with the telephone and other services appearing as secondary features upon the proposed structure.

13. The kiosk would be a large, visually dominant and intrusive structure that would detract from the appearance of the wider street scene. It would create additional visual clutter within the street scene. The advertising panel with its illumination would add to its prominence and visual dominance within the street scene. The kiosk with advertisement would not relate to other street furniture or advertisements in the area that pertain to shop frontages. Consequently, the visually dominant and intrusive nature of the structure would detract from the character and appearance of the street scene and the visual amenity of the area and would harmfully add further visual clutter of street furniture within this locality. This harm would be clearly visible in public views along Sandgate Road.
14. It is suggested that digital advertisements are an acceptable feature within the streetscape as nearby stores displaying images within shopfront windows. However, these appeared to me to be few in number. Furthermore, those displays relate to existing retail frontages rather than a new prominent element of street furniture that can and should be considered on its own merits. Such existing displays offer little weight in favour of the proposed development.
15. The site is approximately 55m west of the boundary of Folkestone Leas and Bayle Conservation Area (the CA). The CA has been designated due to its historical and architectural significance. However, the CA is some distance from the appeal site beyond a public highway. Given its distance from the CA, the kiosk would not be significantly disruptive in views into and out of the CA. I, therefore find that the character and appearance of the CA and its significance would not be significantly harmed. Further to the above, the Council draws attention to the Folca building close by. Although not a Listed building, it is a non-designated heritage asset. Notwithstanding this, I have found the proposal would have a detrimental visual impact upon the street scene and I have found it to be an unacceptable installation. Dismissing this appeal would obviate any impact upon this non-designated heritage asset.
16. The public telephones hosted by the kiosks provide a lifeline within our communities and are more accessible to those with mobility impairments than traditional telephone boxes. The kiosks would also provide other facilities, such as, mapping information and a defibrillator. Furthermore, the advertisement panel could be used to display public health messages, alerts or be utilised by local businesses for advertisement purposes. Working alongside Trees for Cities the operators intend to plant a tree on an urban street for every phone kiosk installed. In addition, the kiosk would not be within the vicinity of a designated listed building. Whilst there are clear public benefits of the proposal, as well as environmental and economic benefits, these do not set aside those considerations pertaining to the proposals as set out under the main issues section above.
17. Conditions have been put forward that could control the timing and images displayed and/or the level of illumination. The advertisement proposal would also be subject to the five standard conditions set out in the Regulations. However, given my above findings I do not consider such conditions would ameliorate my concerns sufficiently to allow planning permission or advertisement consent to be forthcoming.

18. For these reasons, I conclude that the proposed telephone kiosk and advertisement would have a harmful effect on siting and appearance, those being the character and appearance of the area including cumulative impacts (Appeal A) and the amenity of the advertisement, that being visual amenity (Appeal B).
19. I have taken into account Policies HB1, RL2, HE3 and RL9 of the Folkestone and Hythe District Council Places and Policies Local Plan 2020 and the provisions of the Framework which seek to protect character, appearance and amenity and so are material in these cases. In respect of Appeals A and B Policies HB1 and RL2 require development to make a positive contribution to its location and surroundings. With regard to Appeal A I have not found harm to heritage assets that would bring the proposal into conflict with Policy HE3 that seeks to protect heritage assets. In relation to Appeal B Policy RL9 requires advertisements to be sensitively designed and located having regard to the character and general characteristics of the locality and their cumulative impact and visual prominence within the street scene. Given I have concluded that the proposals would harm the character, appearance and visual amenity of the area, the proposals conflict with Policies HB1, RL2 and RL9. I have had regard to the representations received in respect of both proposals both at the planning application and appeal stages.
20. The Council also contends that the proposals would compromise the missions of the Folkestone Place Plan as they would not meet the aspirations of the Place Plan. That Plan, although endorsed by the Council, has not yet been adopted and does not form part of the current development plan.

Conclusion

21. For the reasons set out above, I conclude that both Appeal A and Appeal B should be dismissed.

Nicola Davies

INSPECTOR