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## Appeal Decisions

Site visit made on 17 March 2025

**By Megan Thomas K.C. Barrister-at-Law**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

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### **Appeal A Ref: APP/P3610/W/24/3356729**

#### **Land outside 2a Station Approach, Epsom KT19 8BY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by New World Payphones against the decision of Epsom and Ewell Borough Council.
  - The application Ref.24/01247/FUL.
  - The development proposed is described as “Installation of 1 no. new communications kiosk with integrated advertising display.”
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### **Appeal B Ref: APP/P3610/H/24/3356730**

#### **Land outside 2a Station Approach, Epsom KT19 8BY**

- 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 Epsom and Ewell Borough Council.
  - The application Ref. 24/01248/ADV.
  - The advertisement proposed is described as “Installation of 1 no. new communications kiosk with integrated advertising display.”
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## **Decisions**

### **Appeal A Ref: APP/P3610/W/24/3356729**

1. Appeal A is dismissed.

### **Appeal B Ref: APP/P3610/H/24/3356730**

2. Appeal B is dismissed.

## **Procedural Matters**

3. There are two appeals relating to the same site, one against the refusal of planning permission and the other against the refusal of advertisement consent. They are intrinsically linked and raise similar issues. To avoid repetition, while considering each on its merits, I have dealt with both in a single decision letter.
4. The Town and Country Planning (Control of Advertisements)(England) Regulations 2007 stipulate that advertisement control may only be exercised in the interests of ‘amenity’ and ‘public safety’. With respect to appeal B, the development plan policies referred to by the Council are not determinative, but I have taken these into account as a material consideration.

## Main Issues

5. The main issues for Appeal A are the effect of the proposal on the character of the area, the effect on pedestrian safety and the effect on the living conditions of the occupants of Hudson House in relation to noise and disturbance. The main issue for Appeal B is the effect of the advertisement on amenity.

## Reasons

6. The appeal site is within the town centre boundary of Epsom. To the immediate south of Epsom railway station there is an east/west looped road separated by a narrow central reservation which has a north and south carriageway. There is a pedestrian crossing across both carriageways located near the entrance to the station on the north side. There are drop off laybys for buses and cars. There are metal barriers to prevent pedestrians crossing the central reservation other than via the formal crossing. The appeal site is located near the pedestrian crossing on the south of the southern carriageway.
7. The proposal is for a freestanding communication kiosk which would be set in from the kerb line by about 500mm and would stand about 2500mm from a dwarf brick wall forming a planter outside the front elevation of Hudson House. Hudson House consists of several stories of residential flats. In plan form the kiosk is 'L-shaped'. The advertisement display would face east and, in size, would be about 1.6m by about 0.9m. It would be a single illuminated display with an automatic change of static images. The screen would be LCD illuminated with an illuminance level of 300cd/sqm. It would portray static advertising images changing every 10 seconds with no fading or swiping in transition. The display has automated luminance control which adapts to ambient light levels. It can be switched off at night.
8. The kiosk would be about 2.4m high and about 1.1m wide with a depth of about 0.9m. On the west-facing side, there would be several facilities including a payphone, a touch screen which can give wayfinding public information, public wireless telecommunication services and a defibrillator. It is accessible for those with disabilities.
9. The National Planning Policy Framework at paragraph 141 states that the quality and character of places can suffer when advertisements are poorly sited and designed. The existing character of the appeal site and its surrounding is one of essential street furniture such as road/parking signs, pedestrian barriers, metal utility boxes, lighting columns and high level traffic lights/lower level pedestrian lights for the controlled crossing. Neither the kiosk nor the advert display screen are small items. The kiosk is tall at about 2.5m and in spite of its L-shape, is monolithic in character. The pavement is not unduly wide at the point where the kiosk is proposed and it would tend to dominate this part of the streetscene. It would have a negative impact on what is currently a fairly uncluttered area, and as a result, damage visual amenity.
10. Overall, on this first issue, I consider the proposal would unduly harm visual amenity and the character of the area and would be contrary to policies DM9 and DM10 of the Epsom and Ewell Development Management Policies Document (adopted 2015).
11. Turning to public and highway safety matters, a clear desire line for train passengers coming from or going to the town centre would be via the pedestrian crossing, walking near or over the appeal site itself. It is highly likely to be a very heavily trafficked pedestrian thoroughfare with people moving in opposite directions at the same time as they catch a train or have disembarked from one. The appellant has referred to the Department for Transport's *Inclusive Mobility* guidance (paragraph 4.2) which states that footways and footpaths should be made as wide as is practicable, but under normal circumstances, a width of 2000mm is the minimum that should be provided. In this particularly busy location, the proposed gap of

about 2500mm between the planter wall and the kiosk, whilst above the minimum, would not be sufficiently wide to allow free flow of pedestrian traffic. It would create an unnecessary pinchpoint, and a pinchpoint that is very near stationary pedestrians waiting to use the crossing.

12. I note that the Highway Authority has stated that the footway at the proposed location of the communication kiosk is made up of both private land and land designated as public highway. It has stated that it cannot guarantee that the private section of the footway will remain open for use as a footway and so the only guaranteed available space for pedestrians is the public highway portion. However, as it does not indicate what the width of the public highway portion is, I can only give their concern very limited weight in my decision.
13. My conclusion on the highway issue is that the proposal would unduly interfere with the free flow of pedestrian traffic and would give rise to adverse public and highway safety impacts.
14. Turning to the living conditions of occupants of Hudson House, there are habitable rooms at both ground floor and first floor storeys in the façade facing the appeal site. The windows of some of those rooms would be close to the kiosk, with at least one looking directly across at it. Whilst there is a degree of existing conflict because of the ground floor location and proximity to a well trafficked pavement, the introduction of the structure and digital advertisement display would result in light spillage to the windows in darkness hours. I also anticipate that there would at times be a congregation of people at the kiosk (and on my site visit I noted the public using the planter wall as bench). These factors lead me to conclude that there would be an unsatisfactory impact from the proposal on privacy and an increase in noise and light pollution and disturbance. I have noted that the digital advert display could be conditioned to be turned off from the hours of 2300 to 0600, but this would not overcome the harm I have identified.
15. The NPPF indicates that communications infrastructure is essential for sustainable economic growth and also plays a vital role in enhancing the provision of local community facilities and services. Although I recognise that the proposed hub would make a positive contribution to these aims, including through provision of a defibrillator, free ultrafast wi-fi access, free phone calls to landlines and charities, rapid connection to emergency services, device charging, an emergency messaging system and public information displays, the public benefits arising from this development would, in practical terms, only be modest. Thus, I find overall that the public benefits would not outweigh the harm I have identified.

## **Conclusion**

16. In respect of Appeal A, the proposal would cause unacceptable visual harm to the character of the area, would harm highway safety and would cause unacceptable living conditions for some occupants of Hudson House in relation to privacy, noise and disturbance. There would also be conflict with the development plan and the NPPF in these regards. In respect of Appeal B, the proposal would cause undue harm to amenity and public safety. Accordingly, both Appeal A and Appeal B are dismissed.

*Megan Thomas K.C.*

INSPECTOR