
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/24/3348176

Pavement outside 15 Whitworth Street West, Manchester M1 5WG

- 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 139703/FO/2024.
 - The development proposed is described as 'removal of existing New World Payphones red telephone box outside Ritz Theatre (Whitworth Street West M1 5NQ) and installation of new digital communications kiosk and ancillary advertisement on pavement outside 15 Whitworth Street West'.
-

Appeal B Ref: APP/B4215/H/24/3348178

Pavement outside 15 Whitworth Street West, Manchester M1 5WG

- 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 139704/AOH/2024.
 - The advertisement proposed is described as 'removal of existing New World Payphones red telephone box outside Ritz Theatre (Whitworth Street West M1 5NQ) and installation of new digital communications kiosk and ancillary advertisement on pavement outside 15 Whitworth Street West'.
-

Decisions

Appeal A Ref: APP/B4215/W/24/3348176

1. The appeal is allowed and planning permission is granted for the removal of the existing New World Payphones red telephone box outside Ritz Theatre and the installation of a new digital communications kiosk on the pavement outside 15 Whitworth Street West, in accordance with the application Ref: 139703/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 PY4419-051-004.
 - 3) No development shall take place until the telephone box outside the Ritz Theatre (Whitworth Street West M1 5NQ) has 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/H/24/3348178

2. The appeal is dismissed.

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. Having regard to s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, 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.
8. 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.
9. Finally, I have had regard to the latest version of the National Planning Policy Framework, which was published in December 2024 ('Framework').

Main Issues

10. The main issue in Appeal A is:

- the effect on the proposal on the character and appearance of the 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

11. The northern side of Whitworth Street West is broadly characterised by densely packed, tall buildings of different styles and eras; with the Grade II listed Manchester South Junction and Altrincham Railway Viaduct on the opposite side of the road. The official list entry sets out that this long urban viaduct is an early example dating from the 1840s era of 'railway mania', and that it incorporates a series of well-detailed bridges, some with highly decorative Gothic-style ironwork. I observed on my visit that some of the viaduct's arches have been filled-in, sometimes with commercial units occupying the space. The area comprises a mix of residential and commercial uses, such as offices, estate agents, restaurants and the Ritz Theatre.
12. The existing telephone box which would be removed is located on a narrow stretch of pavement outside the Ritz Theatre. The proposed kiosk would be located on the same side of this road, some distance to the west, on a wider section of pavement outside the fairly modern apartment building at Enterprise House. It would be sited close to the pavement edge between, and broadly in line with, two street trees.
13. Although there are lamp posts, parking meters and a few discrete highway signs in the vicinity, there is relatively little street furniture close to the site of the proposed kiosk. In that context, and given that an existing telephone box would be removed, albeit some distance away, the proposal would not give rise to a significant sense of clutter. Given its context, siting and scale, the kiosk would not appear as an overly dominant feature to pedestrians using the pavement.
14. At just under 2.5 metres high the kiosk would be slightly taller, and slightly wider, but less deep than the phone box it would replace. 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 frontage. Moreover, its simple, contemporary style, with a black powder coated steel finish, would not look out of place against the backdrop of the large, modern building at Enterprise House.
15. The kiosk would be on the opposite side of the wide highway from the railway viaduct. Given its siting, its limited bulk and its fairly plain style, and in the context of a few other nearby items of street furniture, having paid special regard to S66(1) of the 1990 Act, I am satisfied that the setting of that designated heritage asset would not be harmed.

16. 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.
17. In reaching my decision I have also had regard to a previous appeal decision where a kiosk was allowed outside 15 Whitworth Street West.¹ However, that was for a kiosk with a different design, which did not include a digital screen, and it was in a slightly different location. Nevertheless, for the above reasons, I conclude that this scheme would not harm the character and appearance of the area, or the setting of listed buildings.
18. 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 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 avoid harm to the significance of designated heritage assets unless there is clear and convincing justification.

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. Unlike the telephone box which would be removed, there would be a digital advertising display on the proposed kiosk's western face. I observed that whilst there are existing digital displays further to the west of the site around the busy junction with the A5103, there are very few advertisements along this stretch of Whitworth Street West. Indeed, despite the presence of commercial uses, there are very few free-standing advertisements, and signage on the buildings is typically minimal and restrained.
21. The proposed digital display would cover most of the kiosk's western face. With its illumination, and its frequently changing content, with static advertisements changing at 10 second intervals, it would be visually prominent and incongruous. It would thereby introduce an overly commercial element into this part of the streetscene, close to a residential apartment building, which would be at odds with its prevailing character, and which would compete with, and draw the eye away from the brickwork and architectural detailing of the historic railway viaduct.

¹ APP/B4215/W/18/3192639.

² ID: 18b-079-20140306

22. Whilst I have noted the appellant's dissatisfaction with the Council's handling of the application, which he considers was at odds with its pre-application advice, I have dealt with the scheme before me on its merits. For the above reasons, having regard to its setting, the character of nearby buildings, and the few advertising displays in the area, the proposed illuminated digital display would harm the visual amenity of the area.
23. In reaching my decision, I have 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. Given that I have concluded that the proposal would harm visual amenity, it would not accord with their approach, or with the stance at 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

24. I have considered suggested conditions against the Framework's tests, making minor adjustments in the interests of clarity and precision.
25. I have imposed the standard time limit for commencement and, in the interests of certainty, a condition citing the approved drawings. In the interests of the character and appearance of the area, a condition is also necessary requiring that the existing telephone box outside the Ritz Theatre is 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.
26. My condition No 4, is necessary in order to control noise emissions from the kiosk, in the interests of the character of the area.
27. 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 also 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.

Appeal B

28. Whilst the proposed advertisement would be acceptable in terms of public safety, it would have a harmful effect on visual amenity. The appeal is therefore dismissed.

Chris Couper

INSPECTOR