



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: 13 February 2025

Appeal A Ref: APP/B4215/W/24/3348594

Outside Peter House, 1 Oxford Street, Manchester M1 5AN

- 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 139701/FO/2024.
 - The development proposed is described as 'removal and replacement of existing red telephone kiosk with single black digital communications kiosk and ancillary advertisement'.
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Appeal B Ref: APP/B4215/Z/24/3348595

Outside Peter House, 1 Oxford Street, Manchester M1 5AN

- 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 139702/AOH/2024.
 - The advertisement proposed is described as 'removal and replacement of existing red telephone kiosk with single black digital communications kiosk and ancillary advertisement'.
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Decisions

Appeal A Ref: APP/B4215/W/24/3348594

1. The appeal is allowed and planning permission is granted for the removal and replacement of the existing red telephone kiosk with a single black digital communications kiosk, in accordance with the application Ref: 139701/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 PY4419-051-003.
 - 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/Z/24/3348595

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. 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. 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 significance of the St Peter's 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 appeal site lies on the western side of Oxford Street and within the St Peter's Square Conservation Area ('SPSCA'). I observed that the SPSCA is broadly characterised by large commercial and institutional buildings, many of which date from the Victorian and Edwardian eras, together with broad highways, and a largely pedestrianised public square, with tram stop, trees and seating. Listed buildings within the SPSCA to the north-west of the site, include the Grade II Memorial Cross, and the Grade II* Midland Hotel and Grade II* Central Public Library.
13. A set out in the official list entries¹, the Memorial Cross is constructed in Portland stone, in a gothic style, on a hexagonal base. The Midland Hotel was built for the Midland Railway Company around 1900 in an elaborate and eclectic Baroque style. It is an imposing and prominent five storey building, which is said to be representative of the cosmopolitan wealth and taste of late nineteenth century Manchester, and is an early example of a steel-framed building. Finally, the Central Public Library dates from 1930 to 1934, and is constructed in Portland stone, in a classical style. It has a circular plan form with a domed central reading room, and a rectangular portico facing St Peter's Square on its eastern side.
14. The proposed kiosk would be in the same position on the pavement as the existing, rather tired-looking telephone box it would replace. The nearest building, Peter House, at the back edge of the pavement, is a tall, eleven storey structure dating from the 1960s. Other nearby buildings are generally of a substantial scale and contain commercial uses, including retail and offices, often with largely glazed frontages at ground floor.
15. In that context, the proposed kiosk, with its black powder coated steel finish, and its contemporary appearance would not look out of place. At just under 2.5 metres high it would be slightly taller than the box it would replace, and it would be slightly

¹ Ref: 1270696, 1271154 and 1270759

- wider, but less deep. Its design, with partially open or glazed sides, would limit its perceived bulk, and would respect the style of nearby buildings.
16. It would be sited close to the carriageway edge on this busy stretch of pavement, between a tall black lamp post and a low black post with a small highway sign, with cycle hire stands some distance beyond to the north-west, and a similarly sized highway sign to the south-east. Whilst this section of the pavement is relatively narrow, it is also fairly free of obstructions.
 17. The Council has undertaken significant recent improvements to optimise the pedestrian environment and uplift the public realm of St Peter's Square and the surrounding area, including the removal of items of street furniture along this stretch of the footway. However, given its context, and that an existing telephone box in the same location and of a broadly similar size would be replaced, the scheme would not give rise to a significant sense of clutter, or significantly undermine those efforts. Additionally, compared to the existing situation, it would not result in a significant obstruction to users with mobility needs.
 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 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.
 19. The buildings to the north-west are some distance away, with the Midland Hotel around the corner from this site, such that the kiosk would not generally be seen with it in the streetscene. Given the kiosk's siting, and its fairly restrained, simple form, and in the context of the existing box it would replace, it would not compete with those designated heritage assets.
 20. Thus, irrespective of the appellant's offer to plant trees along this stretch of the pavement, I conclude that the proposed kiosk would not harm the character and appearance of the area. Having regard to the tests in the 1990 Act, the significance of the SPSCA would be preserved, and the setting of the Memorial Cross, the Midland Hotel and the Central Public Library would not be harmed.
 21. 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, taking account of matters including siting, layout, form, massing, materials and detail; and which preserves or enhances heritage assets such as conservation areas and listed buildings, including their setting.
 22. 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

23. 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.
24. Unlike the telephone box to be removed, which does not contain an advertisement, the proposed kiosk would have a digital display. Notwithstanding that this is a commercial area with shops, offices and restaurants, the advertisements on the buildings in this part of the streetscene are fairly restrained.
25. Moreover, whilst there are digital displays on Oxford Street just beyond Hall Street, to the south-east³, they are outside of the SPSCA. Whilst the BT Inlink is next to a Grade II listed building, its advertisement is perpendicular to it, thus limiting its impact on that historic feature. The Council states that there are no similar digital displays within the SPSCA, and I did not observe any nearby on my visit.
26. The proposed digital display would cover most of the kiosk's south-eastern face. With its illumination, and its frequently changing content, with static advertisements changing at 10 second intervals, it would draw-the-eye, and it would appear visually prominent and incongruous. It would introduce an overtly commercial character into this part of the streetscene, which would be at odds with its prevailing ambiance.
27. Given the siting of the advertisement relative to the Midland Hotel, it would not generally be seen in the context of that historic building. However, approaching along Oxford Street from the south-east, the screen's large, illuminated south-eastern face would typically be seen against the backdrop of the Central Public Library, with the Memorial Cross slightly off-set to one side. Whilst those structures are some distance away, the display's size and its characteristics, with changing, illuminated, colourful images, would not be in keeping with the Library's attractively styled, classical, stone façade, and with the Cross's intricate gothic detailing.
28. Both parties refer to various decisions involving kiosks with digital displays elsewhere in the city, some of which were determined at appeal. However, I have considered the scheme before me on its merits. Having regard to its setting, the character of nearby buildings, and fairly discrete nearby advertisements, this proposed illuminated digital display would be detrimental to visual amenity within this part of the streetscene, including features of scenic, historic, architectural and cultural importance; and it would harm the character and appearance of the SPSCA.
29. 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, and I note that some of that advice related to a scheme in a different location to that now proposed.

² ID: 18b-079-20140306

³ Appendices 2, 3 and 4 of the Appeal Statement

30. 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

31. The proposal would not harm the character and appearance of the area. The appeal is therefore allowed. Turning to the matter of conditions, the first and sixth conditions suggested by the Council at part 11 of its statement relate to the proposed advertisement. I have considered the other suggested conditions against the Framework's tests, making minor adjustments in the interests of clarity and precision.
32. 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 Specification Document, clearly set out the details of the proposal, the Council's second suggested condition requiring the submission of further details and materials samples is unnecessary. My condition No 3, is necessary in order to control noise emissions from the kiosk, in the interests of the character of the area.
33. 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 4, 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. My condition No 5 is also necessary in the interests of the character and appearance of the area.

Appeal B

34. 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