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## Appeal Decision

Site visit made on 11 July 2018

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6<sup>th</sup> August 2018**

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**Appeal Ref: APP/X5210/W/18/3195372**

**Pavement Outside The Holborn Hotel, on the North Side of Theobald's Road at the Junction with Old Gloucester Street, London WC1B 4AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mr Tom Fisher (Euro Payphone Limited) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2017/3549/P, dated 14 June 2017, was refused by notice dated 7 August 2017.
  - The development proposed is the installation of x 1 telephone kiosk on the pavement.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), in respect of development by a telecommunications code system operator for the siting and appearance of x 1 telephone kiosk on the pavement at outside The Holborn Hotel, on the north side of Theobald's Road at the junction with Old Gloucester Street, London WC1B 4AR in accordance with the terms of the application Ref 2017/3549/P, dated 14 June 2017 (form dated 22 March 2017), and the plans submitted with it.

### Procedural Matters

2. The description of development is taken from the appeal form to provide certainty of the proposal subject to the appeal. For the same reason, the location of the appeal site has been taken from the Council's decision notice. Although the date on the application form was 22 March 2017, the date of the application is taken from the appeal form, appeal statement, covering letter and the Council's decision notice which are consistent with the ownership notice which was served.
3. To confirm the information provided, the pavement's width was measured during the site visit. The appellant has been given the opportunity to comment on this measurement but no response has been forthcoming.
4. A revised version of the National Planning Policy Framework (the Framework) was issued on 24 July 2018 but raises no new issues concerning telecommunication matters beyond those raised by the parties.
5. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed telephone kiosk under Schedule 2,

Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) subject to prior approval by the local planning authority of siting and appearance. The Council determined that prior approval was required and refused for the siting and appearance of the kiosk proposed. This appeal has been determined based upon these matters.

6. The Council has made reference in the reasons for refusal to policies contained in the London Borough of Camden Local Development Framework Core Strategy and the London Borough of Camden Local Development Framework Development Policies. However, since the determination of the appeal application, the Camden Local Plan (LP) has been adopted and its policies supersede those of the previous development plan documents. The reasons for refusal also referred to the draft Local Plan policies which are now adopted.
7. The Council has made reference in the reasons for refusal to the Camden Local Plan (LP). However, the principle of development is established by the GPDO and prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO has no requirement that regard be had to the development plan. The provisions of the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. Consequently, this appeal is not determined on the basis of Section 38(6) of the Planning and Compulsory Purchase Act 2004. Nonetheless, the development plan policies and related guidance, including the *Streetscape Design Manual* (SDM) although this does not specifically refer to kiosks, *Streetscape Guidance* (SG), *Pedestrian Comfort Guidance for London* (PCG) and *Camden Planning Guidance* (CPG), insofar as they are relevant to matters of siting and appearance, have been taken into account.

### **Main Issues**

8. The main issues are considered to be whether or not approval should be given in respect of the siting and appearance of the development, with particular reference to (a) the character and appearance of the locality and (b) and the convenience of highway users.

### **Reasons**

#### *Character and Appearance*

9. The appeal site is located within a wide footway that is outside The Holborn Hotel which, itself, is within a commercial area. To the west is a busy traffic light controlled junction. Around the junction are numerous items of street furniture, including bins, telephone kiosks of varying designs, traffic cameras, an information pedestal and various signs.
10. The pavement where the kiosk is proposed is wide and spacious in character and. This appeal scheme would introduce a freestanding kiosk into the streetscene adjacent to various columns, street railings and a tree. By reason of siting, the appeal site can reasonable be claimed to be within the street furniture zone along this part of the footway. No details of any tables or chairs being temporarily placed outside the hotel have been provided and none were observed during the mid-morning site visit.

11. The appeal scheme would not project into the more open character of the pavement adjacent to the hotel and, as such, it would not be a conspicuous or unduly prominent addition to the streetscene. Instead, the appearance of the proposed kiosk would be assimilated into the pattern and arrangement of existing street furniture. The appeal scheme would not, therefore, either result in an unacceptable level of street clutter or be an incongruous addition to the streetscene along this part of Theobald's Road.
12. The site is adjacent to the Kingsway Conservation Area and there are Listed Buildings around the junction, including St Martins College of Arts and Design, Victoria House, the Kingsway Tram Subway and Avenue Chambers. Special regard is to be paid to the desirability of preserving Listed Buildings and their settings. The Framework also states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation and that significance can be harmed or lost through development within their setting.
13. By reason of the separation distance between the proposed kiosk and the Listed Buildings, together with the intervening roads and junction, the appeal scheme would not adversely affect the setting of these heritage assets. Views towards the Listed Buildings across the existing collection of street furniture associated with the traffic light junction would remain when walking along the footway from east to west. The glazed nature of the proposed kiosk would assist with maintaining views. For similar reasons, the setting of the Conservation Area would be preserved.
14. Accordingly, it is concluded that the siting of the kiosk would not detract unacceptably from the character and appearance of the locality. Further, it would not conflict with LP Policies D1, D2 and T1 insofar as that they are a material consideration to this appeal for prior approval. LP Policy D1 is concerned with high quality design in development which respects local context and character and also integrates well with the surrounding streets. LP Policy T1 refers to improvements to the pedestrian environment by supporting high quality public realm improvement works and this is echoed in the SDM, CPG and SG which seek to minimise unnecessary street clutter.

#### *Convenience of Highway Users*

15. Although the pavement as measured is not as wide as initially identified by the appellant, there would remain a clear pavement between the proposed kiosk and the adjacent hotel frontage of some 5 metres. This width would be sufficient to ensure the comfort of pedestrians along this well used pavement and, as such, it would not conflict with the guidance contained in the SG, CPG and PCG. Further, because of its siting adjacent to the columns, street railings and tree, the proposed kiosk would be related to the street furniture zone which exists along this part of Theobald's Road rather than project into the pavement.
16. No temporary chairs or tables were observed to be placed outside the hotel. However, the narrowing of the pavement caused by the combination of the erection of the proposed kiosk and any tables and chairs would be similar to the width available between the street tree and the external seating area. The street tree already interrupts pedestrians who may seek to walk adjacent to the railings. Accordingly, this current interruption to the flow of pedestrians would not be materially changed by the siting of the appeal scheme.

17. Concern has been expressed about the potential for the proposed kiosk to obstruct visibility to the right for vehicles existing Old Gloucester Street. However, because of the proposed kiosk's siting away from the edge of the carriageway, the railing and other street furniture, there would be no material reduction in the current visibility splay for highway users. Further, the number of vehicles existing Old Gloucester Street is limited to those accessing the service area of the hotel and the car park of an adjacent office building.
18. On this issue, it is concluded that the siting of the kiosk would not unacceptably harm the convenience of other highway users. Further, it would not conflict with LP Policies T1 and T6 insofar as that they are a material consideration to this appeal for prior approval. These policies seek to provide high quality footpaths and pavements that are wide enough for the number of people expected to use them and promoting fair access for all. In respect of highway safety matters, no specific conflict has been identified with LP Policies G1 and A1 which are concerned with the delivery and location of growth in Camden and protecting the quality of life of occupiers and neighbours.

*Other Matters*

19. The Framework deals with supporting high quality communications infrastructure, including applications for prior approval, and requires that local planning authorities must determine applications on planning grounds. As the principle of development is established by the GPDO, some of the considerations raised by other parties, such as need for the proposed kiosk, are not relevant matters.
20. The appellant has referred to the principle of the development being supported by the Framework which encourages the development of telecommunication infrastructure to support sustainable economic growth. Furthermore, and subject to the location of the equipment, the kiosk would be accessible to those with impaired mobility and include solar technology as a power source.
21. The Council has referred to the number of kiosks within the surrounding area, including on the opposite side of the road and within the public realm to the east. However, these other kiosks are in locations with a different character and surrounding context. Both parties have provided appeal decisions but, in the absence of their detailed planning circumstances, I cannot be certain that these other schemes are directly comparable to the proposed kiosk. This appeal has been determined based upon the planning circumstances of the proposed kiosk.
22. The general concerns of the Police and others have been carefully noted but there is no specific evidence or reason to consider that the proposed kiosk's presence would encourage or increase crime or anti-social behaviour when taking into account that the design of the kiosk is not fully enclosed. Further, no details of CCTV cameras which might be obstructed have been provided and it was observed that the view towards the appeal site of the nearest traffic camera was already affected by the street trees. I am also mindful that there is nearby street lighting and natural surveillance of the appeal site, including from near-by cafés. This is a neutral matter in the determination of this appeal.
23. Although an amended drawing has been provided by the appellant, the Council has identified that the internal layout of the proposed kiosk does not accord

with the updated version of BS8300 – *Design of Buildings and their approaches to meeting the needs of disabled people*. However, there are no reasons for me to consider that the appellant would not fully accord the provisions of BS8300. The internal change required to the location of the equipment would not materially alter the assessment made concerning the siting and appearance of the appeal scheme. This is a neutral matter in the determination of this appeal.

24. Concerns have been expressed regarding the prospect of outside panels of the payphone kiosk being used for advertisements. The erection of a kiosk and the display of advertisements are distinct and separate matters requiring different applications. This appeal relates to the construction of a kiosk only and not any advertisement consent that may otherwise be required. I have determined the appeal on that basis and, therefore, the matter of advertisements has not influenced my conclusion.

### **Conditions**

25. The grant of prior approval for the payphone kiosk is subject to the standard conditions set out in the GPDO, including an implementation timescale, removal of the structure/apparatus when it is no longer required for electronic telecommunications purposes and accordance with the details submitted with the application. No further conditions are necessary to make the proposal acceptable.

### **Conclusion**

26. For the reasons given above and having regard to all matters raised, it is concluded that the appeal should be allowed and prior approval granted subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO.

*D J Barnes*

INSPECTOR



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## Appeal Decisions

Site visit made on 29 September 2020

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 16 November 2020

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### **Appeal A Ref: APP/X5210/W/20/3254037**

#### **Telephone Kiosk outside 197 Kentish Town Road, London NW5 2JU**

- 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 Mr Richard Wilson and New World Payphones against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/3996/P, dated 5 August 2019, was refused by notice dated 27 March 2020.
  - The development proposed is replacement of existing telephone kiosk with new telephone kiosk.
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### **Appeal B Ref: APP/X5210/H/20/3252962**

#### **Telephone Kiosk outside 197 Kentish Town Road, London NW5 2JU**

- 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 Richard Wilson and New World Payphones against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/4481/A, dated 5 August 2019, was refused by notice dated 27 March 2020.
  - The advertisement proposed is illuminated digital advertisement display integrated within replacement telephone kiosk.
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## Decisions

### **Appeal A Ref: APP/X5210/W/20/3254037**

1. The appeal is dismissed.

### **Appeal B Ref: APP/X5210/H/20/3252962**

2. The appeal is dismissed.

## Procedural Matters

3. The applications were submitted together on a single application form covering both planning permission and consent to display advertisements. As set out above there are two appeals on this site relating to different aspects of the same proposal. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The Council has referred to development plan policies in respect of Appeal B. As advertisement proposals can only be considered on the basis of amenity and public safety considerations, I have taken into account relevant development

plan policies so far as they relate to these issues, but in themselves they have not been determinative from the point of view of my overall conclusion on the advertisement appeal.

5. Subsequent to the determination of the application the appellants have submitted an amended plan (PY3292/025 rev A) which reflects changes to street furniture in the vicinity of the proposal. I have determined this appeal having regard to the layout of the street scene as it was at the time of my site visit.

### **Main Issues**

6. Since submitting the appeal the Main Parties have entered into an Agreement made under Section 106 of the Town and Country Planning Act 1990, Section 111 of the Local Government Act 1972, Section 278 of the Highways Act 1980, Section 1 of the Localism Act 2011 and the New Roads and Streetworks Act 1991 (the Agreement). Through the Agreement, the proposal would replace the existing kiosk and remove three others. The Agreement would also make provision for a new street tree to be provided for each of the kiosks removed. Further provision is made for the cleaning and upkeep of the replacement kiosk to an agreed standard. The Agreement also makes provision for the Council to have access to the advertising panel and provide a wayfinding screen to display Council messages, including emergency messages. I have taken the Agreement into account as part of my consideration of both appeals and I am satisfied that it is both acceptable and necessary.
7. I consider that, through the Agreement, the Council's concerns relating to the fourth reason for refusal in the Decision Notice relating to Appeal A are addressed.
8. The main issues in relation to Appeal A are, therefore, (i) the effect of the proposal on the character or appearance of the site and the immediate area with particular reference to 189-197 Kentish Town Road, 205-211 Kentish Town Road and 207-223 Kentish Town Road, which are Locally Listed Buildings (LLBs), and 213-215 Kentish Town Road which is a Grade II Listed Building (LB), and (ii) the effect of the siting of the proposed development on pedestrian movement and public safety.
9. In relation to Appeal B, the control of advertisements is exercisable only with respect to amenity and public safety. In this case, the main issue is the effect of the proposed advertisement on amenity.

### **Reasons**

10. The site is located outside 189-197 Kentish Town Road, an LLB currently containing an empty shop unit and a convenience store, on the footway of Kentish Town Road. Kentish Town Road is a wide street with commercial uses on both sides. The range of shops and services provided and the high-density housing in the area combine to result in Kentish Town Road having the character of a busy urban street. The buildings exhibit a mix of architectural styles, including modern infill, generally with more modern shop fronts below.
11. The significance of 213-215 Kentish Town Road derives from the architectural features of its façade to Kentish Town Road, as an example of an arcade shop front typifying a style common in the 1930s, reflective of trading practices at that time

12. The significance of the LLBs derives from their architectural compositions, attractive appearance and grouping.
13. There is a wide footway between the shop frontage and the vehicular carriageway in the vicinity of the site. In the immediate locality there is limited street furniture, of a contemporary design, including an existing telephone kiosk, bicycle racks, litter bins, street lighting columns, and a street tree in a large planter. Advertising on the commercial units includes some internally illuminated signage but is generally low key and incorporates static images. Overall the area has a pleasant sense of spaciousness despite its busy urban character.
14. The Council, as part of their consideration of the application, requested usage figures for the kiosks that would be removed or replaced. Whilst this demonstrated a low level of usage, a degree of usage was nonetheless present, including that by persons accessing emergency and other support services. Further, the development would provide a type of structure that could be conveniently accessed by those with a mobility impairment and thus would meet a clear need for its users. The proposal would, therefore, address a degree of need in the area and the kiosks to be replaced are not, on the basis of the evidence before me, entirely redundant.
15. Paragraph 116 of the Framework makes it clear that decisions on applications for telecommunications equipment should be made on planning grounds and that decision-takers should not seek to “prevent competition between different operators... [or]... question the need for the telecommunications system”.
16. The appellants argue that the increased use of the mobile phone has resulted in a decrease in use of public telephone boxes, and that this usage is further reduced by the lack of inclusivity and anti-social behaviour issues associated with the design of their current kiosk. They cite an increase in usage of their kiosks following upgrade and I have no reason to dispute this.
17. The proposed development would result in a kiosk of L-shaped cross section with a roof being installed close to the footway edge, with the shorter side closest to the kerb and the longer side at right angles to the flow of traffic. It would have an advertising panel on the longer side.
18. There is dispute between the main parties regarding the need for the structure to be of the form and scale proposed. Notwithstanding that an alternative structure could physically incorporate the proposed telecommunications equipment, the design incorporates a roof and a side panel which would provide shelter from the elements for customers whilst retaining two open sides to allow access for those with a mobility impairment and improve natural surveillance. The degree of shelter that would be provided would be a reasonable balance against the need to provide accessibility.
19. An existing kiosk, of more angular, enclosed design and an uncared-for appearance, at the same location would be removed. Notwithstanding this, as a consequence of its height, width, dark colour, illuminated screen and separation from other street furniture of a similar scale, the proposed kiosk would be a prominent feature in the street scene.
20. This proposal is one of several in the wider area of Camden seeking to rationalise kiosk provision and reduce the number of kiosks overall. In



association with the removal of the existing kiosk the replacement one would not significantly affect the sense of spaciousness, nor, given its setting against more modern shop fronts and the mix of architectural styles, would its simple, modern design incorporating elements referencing traditional kiosks, detract from the character and appearance of the site and the surrounding area which forms part of the setting for the LB and the LLBs.

21. The visual impact of the kiosk would be increased by the large illuminated advertising panel, which would be a dominating feature on the structure. The panel, close to the kerblines, would be a prominent standalone illuminated feature. The panel would be unrelated to the services provided by the adjacent commercial units and would appear prominent in views along the street both during the day and in hours of darkness.
22. The luminance level and rate of image transition could be controlled by condition. Nevertheless, the appeal proposal would, as a result of the internal illumination associated with the panel, its position adjacent to the kerb and changing images, create a discordant feature within the street scene directly in front of 187-197 Kentish Town Road and within vistas encompassing the LB and LLBs. Whilst such forms of advertisement are becoming increasingly familiar on the street scene, it would, nonetheless, create an additional, discordant feature within the street scene, adding visual clutter and hence adversely affect the way in which these buildings are experienced from the public realm. To this extent, significant harm would be caused to the amenity of the area.
23. Even without displaying an advertisement, the illuminated screen would be a discordant feature within the street scene adding unnecessary visual clutter and hence would harm the settings of the LB and LLBs.
24. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in making decisions on planning applications that may affect a listed building or its setting, special attention is paid to the desirability of preserving the building or its setting. In addition, Paragraph 193 of the Framework requires when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
25. Whilst, within the wider area, there are other examples of illuminated advertisements mounted on street furniture near the kerblines, including digital advertisements, these are not located within the context of this particular street frontage.
26. No pedestrian count data has been provided by either party in support of their case. However, the proposal site lies on a busy shopping street and is likely to experience high volumes of footfall.
27. With regard to the current layout of the street and footway width the replacement of the kiosk would provide a marginal reduction in width of available footway. It would, therefore, still fall short of the recommended minimum width for high footfall locations contained within Appendix B of the Transport for London (TfL) guidance document entitled 'Pedestrian Comfort Guidance for London'. The Camden Streetscape Design Manual -2005- identifies that there are benefits to overall passenger flow by grouping street furniture in bunches. The kiosk would remain in line with the planter nearby

and would maintain the current separation from it. In these circumstances, the minor increase in obstruction to the passage of pedestrians would, of itself, be unlikely to engender additional delay or encouragement to leave the footway and enter the carriageway.

28. The kiosk would be positioned close to an automatic telling machine (ATM) within the frontage of the convenience store. The Metropolitan Police Crime Prevention Design Advisor has identified that, associated with their current low levels of use, telephone kiosks within the Borough have become crime generators and focal points for anti-social behaviour (ASB). With regard to Kentish Town Road the potential use of the structure by street beggars has been highlighted.
29. Whilst it would be possible for beggars to sit within or adjacent to the proposed kiosk, increasing the obstruction associated with it, this could be equally true of, and have the same result as, the existing layout of street furniture. Whilst the orientation of the kiosk and its open nature would provide a degree of shelter from the elements, this is, in this case, unlikely to materially increase the occurrence of begging as the position of the kiosk would remain effectively unaltered.
30. Further concerns have been raised regarding other ASB such as urinating against or within the structure and vandalism/graffiti. By replacing an existing kiosk there would be no net increase in opportunities for such behaviour. The more open nature of the proposed kiosk compared to that of the existing one may actively discourage such behaviour. The replacement of the old, uncared for kiosk and proposed improved maintenance regime would be likely to reduce the effects of ASB. However there is no substantive evidence before me to suggest that this would be to a significant degree.
31. Levels of illumination from the kiosk could be controlled through a suitable planning condition and I have little substantive evidence before me to demonstrate that the substitution of the kiosk structures and relocation would have an adverse effect on CCTV coverage or reduce natural surveillance and so use of the kiosk to screen illegal activities such as drug dealing and use would, therefore, be unlikely to be measurably altered.
32. Other kiosks that it is proposed to remove are situated some distance from the appeal site and are not visible from it. Such de-cluttering of the streetscape is supported within the TfL Streetscape Guidance Fourth Edition -2019 Revision 1. Their removal would have the benefit of fewer structures in their local streetscape, and I have no reason to object to their removal. However, there is limited information before me about the kiosks which would be removed, including the quality of the public realm at those sites, or whether the streets within which they are located attract a high level of footfall. Therefore, I attach limited weight to any potential benefits that could arise from this.
33. The appellants identify that the inclusion of the advertisement panel is necessary to facilitate the proposed upgrading of their kiosk stock. However, there is little evidence before me to demonstrate that the inclusion of advertising in the form proposed is the only way of achieving this end and so I give this argument limited weight.
34. For the reasons outlined above, I conclude that in respect of Appeal A the development would harm the settings of the LB and the LLBs and the character

and appearance of the wider street scene. The proposal would therefore not comply with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990. The development would also be contrary to Policy D3 of the Kentish Town Neighbourhood Plan -2016- and Policies D1 and D2 of the Camden Local Plan -2017- (the Local Plan) in as much as these require development to respect local context and character and preserve or enhance the historic environment and heritage assets.

35. The above identified harm would be less than substantial taking into account paragraph 196 of the Framework. The Framework directs that where a development proposal would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal. I deal with this matter below.
36. However, I find that the replacement kiosk would not have a harmful effect on pedestrian movement and public safety. It would therefore be in accordance with Policies G1, A1, C5, C6 and T1 of the Local Plan in as much as these, amongst other things, promote safer streets and public areas which are fully accessible, easy and safe to walk through and provide high quality footpaths and pavements that are wide enough for the number of people expected to use them and resist development that fails to adequately address transport impacts affecting communities and the existing transport network.
37. For the reasons outlined above, I conclude that in respect of Appeal B the proposed digital advertising panel would be harmful to the settings of the LB and the LLBs and hence to amenity and therefore would not accord with Policies D1, D2 and D4 of the Local Plan in as much as these require development to respect local context and character, preserve or enhance the historic environment and heritage assets and to avoid contributing to an unsightly proliferation of signage in the area and so are material in this case.
38. In respect of Appeal A, the kiosk would provide a number of services to members of the public, which I understand to be at no cost to end users, including local information provided by the Council and travel and emergency information. The proposal would replace a kiosk of unattractive appearance and make provision for its maintenance and upkeep. The proposal would also remove three other kiosks, thus reducing overall street clutter within the Borough. For each of the kiosks removed a payment would be received to enable the planting of a street tree within the Borough, which would provide wider environmental benefits.
39. The Framework supports the expansion of electronic communication networks which are essential to economic growth and social well-being. Notwithstanding that there are other facilities in the area that provide similar services, the proposal would provide some minor public benefit through increased competition. In addition, the kiosks inclusive design (including accessibility and shelter for the mobility impaired) weighs moderately in favour of the proposal. Whilst these are positive matters to weigh in the overall planning balance, they are not of sufficient magnitude to outweigh the less than substantial harm caused by the kiosk to the settings of the LB and LLBs.
40. In respect of Appeal B, the advertisement screen would provide local information provided by the Council and emergency information. The Framework supports the expansion of electronic communication networks which are essential to economic growth and social well-being. Whilst these are

positive matters to weigh in the overall planning balance, they are not of sufficient magnitude to outweigh the harm caused by the advertisement to the amenity of the area.

### **Other Matters**

41. I note that the main parties engaged in a prolonged process of pre-application discussions, however, such participation, though laudable, is not a guarantee of success. I further note that the appellants have expressed concerns that the Council has been inconsistent in their decision making process. That, however, is a matter between the appellants and the Council.
42. My attention has been drawn by both of the main parties to other appeal decisions in regard to telephone kiosks and advertisements in other local planning authorities. However I have little information before me to draw a comparison between these cases and the proposals before me, particularly in regard to the design of the proposed kiosk and advertisement screen in the context of their setting. In any case, I have determined these appeals on their individual merits and with regard to current planning legislation.

### **Conclusions – Appeals A & B**

43. For the above reasons I conclude that Appeal A and Appeal B should be dismissed.

*I Dyer*

Inspector



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## Appeal Decision

Site visit made on 26 July 2024

**by S Poole BA(Hons) DipArch MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 August 2024**

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### **Appeal A Ref: APP/X5210/W/24/3341451**

**Existing Phonebox, O/S 221 Camden High Street, Camden, London NW1 7HG**

- 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 Martin Stephens of JCDecaux UK Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref is 2023/2990/P.
  - The development proposed is the replacement of an existing telephone kiosk with an upgraded telephone kiosk
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### **Appeal B Ref: APP/X5210/Z/24/3341453**

**Existing Phonebox, O/S 221 Camden High Street, Camden, London NW1 7HG**

- 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 Martin Stephens of JCDecaux UK Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref is 2023/4643/A.
  - The advertisement proposed is the display of an LCD digital advertising screen attached to a replacement, upgraded telephone kiosk
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## Decisions

1. Appeals A and B are dismissed.

## Procedural Matters

2. The pair of appeals relate to the same overall proposal. They differ only in that appeal A is for planning permission and appeal B is for express advertisement consent. I have considered each part of the proposal on its individual merits. However, to avoid duplication I have dealt with the two parts of the proposal together, except where otherwise indicated.
3. In respect of appeal B the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) require that applications for the display of advertisements are considered in the interests 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.
4. As descriptions of the proposals are not provided on the application forms I have used the descriptions given on the appeal forms in the banner headings above.

## **Main Issues**

5. The main issues for appeal A are:

(i) the effects of the proposal on the character and appearance of the street scene and the setting of the Camden Town Conservation Area;

(ii) whether the proposal would increase opportunities for crime and anti-social behaviour; and

(iii) the effects of the proposal on highway safety, with particular regard to pedestrian movement.

6. The main issues for appeal B are the effects of the proposal on the amenity of the area and on public safety.

## **Reasons**

### *Background*

7. The appeal site comprises an area of pavement occupied by a telephone kiosk that is situated in front of a row of shops close to the junction between Camden High Street and Inverness Street. It is within a relatively wide section of pavement close to the road with a tree and refuse bin to one side and a timber seating box on the other. The site is between Camden Underground Station and Camden Lock, which is a vibrant, busy shopping and tourist area, and it is a short distance outside the Camden Town Conservation Area.

8. The appeal proposal would comprise the removal of the existing redundant kiosk and its replacement by a new kiosk which would be similar in respect of its overall dimensions and layout. Unlike the existing kiosk, which includes a display area for printed advertisements on the side facing Inverness Street, the proposal would include a digital advertisement screen measuring about 1m wide by 1.86m in height, which would display static images.

9. Planning permission and advertisement consent were granted at appeal in 2022<sup>1</sup> for development described as the replacement of the current enclosed telephone kiosk with an open access Communication Hub. The advertisement consented in 2022 comprised an LCD portrait screen to be used to show static illuminated content. This scheme is similar to the appeal proposal in respect of the siting and nature of the advertisement but would be significantly smaller in respect of its footprint as it does not include a kiosk. I attach significant weight to my colleague's observations in respect of the 2022 appeal where relevant to the matters before me.

10. The existing kiosk was in a poor state of repair at the time of my visit and did not appear to be functioning either as a communications facility or for advertising purposes. The Council has advised that the kiosk was erected without planning approval and has become immune from enforcement action.

11. I am conscious that if this appeal is dismissed there is a possibility that the existing redundant kiosk could remain in place. However, I consider there to be a far greater likelihood that that scheme for an open access Communication Hub and digital advertisement screen would be implemented given the commercial advantages for the appellant of doing so. For this reason, the

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<sup>1</sup> appeal decisions APP/X5210/W/22/3290364 and APP/X5210/H/22/3290365

scheme granted planning permission and advertisement consent in 2022 represents a fall-back scenario to which I attribute significant weight.

#### *Character, Appearance and Amenity*

12. Whilst the appeal proposal would be similar in size and layout to the redundant kiosk it would replace, it would have a far larger footprint than the fall-back scheme and would feature a larger advertisement display. The combination of the size of the kiosk, and size and illuminance of the display panel, would result in an overall form of development that would be prominent in views looking along Camden High Street towards Camden Lock, particularly at night. In addition, it would lead to an over concentration of street furniture and visual clutter that would have an unacceptable effect on the street scene and the setting of the nearby CA.
13. Due to its siting, size and design the proposal that is the subject of appeal A would have an unacceptable effect on the character and appearance of the street scene. It therefore fails to comply with Policies D1 and D2 of the London Borough of Camden Local Plan (2017) (LP). Amongst other matters, the former seeks to secure high quality design that respects local context and character and integrates well with the surrounding streets, whilst the latter aims to resist development outside a conservation area that causes harm to the character or appearance of a conservation area.
14. I note my colleague's comments in respect of the illuminated digital advertising panel approved in 2022. However, the appeal proposal would include a wider and taller panel which would be more obtrusive and prominent in the street scene. Due to its siting, size, design and the nature of the illuminance the advertisement that is the subject of appeal B would have an unacceptable effect on amenity in the area.

#### *Crime and Anti-Social Behaviour*

15. The Metropolitan Police has advised that the appeal site forms part of one of the major hotspots in Camden Town for drug dealing and there are pre-existing issues with crime and antisocial behaviour. In particular, the Police advise that drug dealers use street furniture to conceal their activities from CCTV cameras.
16. The proposal for which planning permission is sought (appeal A) would create a more enclosed structure than the fall-back scheme and would therefore provide greater scope for anti-social behaviour and the concealment of street crime. Due to its siting and design it would therefore increase opportunities for crime and anti-social behaviour and consequently fails to accord with LP Policy C5, which promotes safer street and public places and the development of pedestrian friendly spaces.

#### *Highway Safety*

17. Camden High Street is a busy shopping and tourist location that experiences high levels of pedestrian activity particularly in the evenings and at weekends. The section of pavement that includes the appeal site is wide and includes a tree, refuse bin and wooden seating cubes within the portion of pavement closest to the road. The appeal proposal would be sited close to the road between the tree and the seating cube. It would therefore be outside the primary zone of pedestrian activity and would not result in any greater impediment to the flow of pedestrians than would result from the

implementation of the fall-back scheme. In addition, I note that there is a very wide pavement on the opposite side of the road.

18. The appeal site is close to the junction between Camden High Street and Inverness Street. The latter is a pedestrianised market street and therefore levels of vehicular traffic turning into the High Street from this road are low. In addition, as the High Street is one-way drivers exiting Inverness Street would be looking towards the station as opposed to the appeal site so would not be distracted or have critical sightlines impeded by the proposal.
19. I am therefore satisfied that the proposals that are the subject of appeals A and B would not have an unacceptable effect on public and highway safety. As such they accord with LP Policies G1, A1, C6 and T1, which together seek to ensure that development proposals are of a high quality, adequately address transport impacts, and are accessible.

### **Other Matters**

20. The Council's reasons for refusal refer to the absence of a legal agreement to secure the removal of the existing kiosks and a maintenance plan. As the appeals are being dismissed there is no need to consider this matter.

### **Conclusion**

21. For the reasons set out under the first and second main issues above, and having regard to all other matters raised, I conclude that appeals A and B should fail.

*S Poole*

INSPECTOR





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## Appeal Decisions

Site visit made on 6 October 2020

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 16 November 2020

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### **Appeal A Ref: APP/X5210/W/20/3253878**

#### **Proposed replacement Telephone Kiosk outside 216-217 Tottenham Court Road, London W1T 7PT**

- 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 Mr Richard Wilson and New World Payphones against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/4035/P, dated 7 August 2019, was refused by notice dated 7 April 2020.
  - The development proposed is proposed new telephone kiosk outside 216-217 Tottenham Court Road to replace the existing two kiosks located outside 204-208 Tottenham Court Road, which would be removed.
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### **Appeal B Ref: APP/X5210/Z/20/3253540**

#### **Proposed replacement Telephone Kiosk outside 216-217 Tottenham Court Road, London W1T 7PT**

- 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 Richard Wilson and New World Payphones against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/4928/A, dated 7 August 2019, was refused by notice dated 7 April 2020.
  - The advertisement proposed is illuminated digital advertisement display integrated within replacement telephone kiosk.
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## Decisions

### **Appeal A Ref: APP/X5210/W/20/3253878**

1. The appeal is dismissed.

### **Appeal B Ref: APP/X5210/Z/20/3253540**

2. The appeal is dismissed.

## Procedural Matters

3. The applications were submitted together on a single application form covering both planning permission and consent to display advertisements. As set out above there are two appeals on this site relating to different aspects of the same proposal. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. The Council has referred to development plan policies in respect of Appeal B. As advertisement proposals can only be considered on the basis of amenity and public safety considerations, I have taken into account relevant development plan policies so far as they relate to these issues, but in themselves they have not been determinative from the point of view of my overall conclusion on the advertisement appeal.
5. Subsequent to determination of the application the appellants have submitted a revised plan (Drawing No PY3338/030 -rev A) which reflects recent changes to the layout of the street. The layout depicted reflects that which I observed during my site visit and in determining this appeal I have considered the layout of the street as shown in the amended plan. The Council have had the opportunity to comment on the amended plan and I do not consider that either party would suffer prejudice by my so doing.

### **Main Issues**

6. Since submitting the appeal the Main Parties have entered into an Agreement made under Section 106 of the Town and Country Planning Act 1990, Section 111 of the Local Government Act 1972, Section 278 of the Highways Act 1980, Section 1 of the Localism Act 2011 and the New Roads and Streetworks Act 1991 (the Agreement). Through the Agreement, the proposal would remove two existing kiosks located outside 204-208 Tottenham Court Road. The Agreement would also make provision for a new street tree to be provided for each of the kiosks removed. Further provision is made for the cleaning and upkeep of the replacement kiosk to an agreed standard. The Agreement also makes provision for the Council to have access to the advertising panel and provide a wayfinding screen to display Council messages, including emergency messages. I have taken the Agreement into account as part of my consideration of both appeals and I am satisfied that it is both acceptable and necessary.
7. I consider that, through the Agreement, the Council's concerns relating to the fourth reason for refusal in the Decision Notice for to Appeal A are addressed.
8. The main issues in relation to Appeal A are, therefore, (i) whether the development would preserve or enhance the character or appearance of the Bloomsbury Conservation Area (the CA) and wider street scene, and (ii) the effect of the siting of the proposed development on pedestrian movement and public safety.
9. In relation to Appeal B, the control of advertisements is exercisable only with respect to amenity and public safety. The main issue is the effect of the proposed advertisement on amenity.

### **Reasons**

10. The site is located on the footway outside 216-217 Tottenham Court Road, a building of traditional design accommodating a shop on the ground floor. Tottenham Court Road is a wide street with commercial uses on both sides. The range of shops and services provided and the high-density office and residential accommodation in the area combine to result in Tottenham Court Road having the character of a busy urban street.
11. There is a wide footway between the building frontage and the vehicular carriageway in the vicinity of the site, with very limited street furniture, in the

form of a streetlight of contemporary design. There is also a street tree of moderate stature. Farther afield there is a pair of telephone kiosks and the footway has been modified to incorporate a delivery bay. Advertising on the commercial units includes some internally illuminated signage but is generally low key and incorporates static images.

12. The buildings exhibit a mix of architectural styles, including modern infill, generally with more modern shop fronts below. Overall the area has a pleasant sense of spaciousness despite its busy urban character, whilst the limited street furniture gives this frontage a particularly open, uncluttered feel. The aforementioned attributes add positively and distinctively to the character and appearance of the CA in the immediate vicinity of the site.
13. The Council, as part of their consideration of the application, requested usage figures for the kiosks that would be removed or replaced. Whilst this demonstrated a very low level of usage of kiosks in the vicinity of the appeal site, a degree of usage was nonetheless present, including that by persons accessing emergency and other support services. Further, the development would provide a type of structure that could be conveniently accessed by those with a mobility impairment and thus would meet a clear need for its users. The proposal would, therefore, address a degree of need in the area and the kiosks to be replaced are not, on the basis of the evidence before me, entirely redundant.
14. Paragraph 116 of the Framework makes it clear that decisions on applications for telecommunications equipment should be made on planning grounds and that decision-takers should not seek to “prevent competition between different operators... [or]... question the need for the telecommunications system”.
15. The appellants argue that the increased use of the mobile phone has resulted in a decrease in use of public telephone boxes, and that this usage is further reduced by the lack of inclusivity and anti-social behaviour issues associated with the design of their current kiosk. They cite an increase in usage of their kiosks following upgrade and I have no reason to dispute this.
16. The proposed development would result in a kiosk of L-shaped cross section and a roof being installed close to the footway edge, with the shorter side closest to the kerb and the longer side at right angles to the flow of traffic. It would have an advertising panel on the longer side.
17. There is dispute between the main parties regarding the need for the structure to be of the form and scale proposed. Notwithstanding that an alternative structure could physically incorporate the proposed telecommunications equipment, the design incorporates a roof and a side panel which would provide shelter from the elements for customers whilst retaining two open sides to allow access for those with a mobility impairment and improve natural surveillance. The degree of shelter that would be provided would be a reasonable balance against the need to provide accessibility. However, as a consequence of its height, width, dark colour, illuminated screen and separation from other street furniture of a similar scale, the proposed kiosk would be a prominent feature in the street scene.
18. This proposal is one of several in the wider area of Camden seeking to rationalise kiosk provision and reduce the number of kiosks overall. Whilst its simple, modern design incorporating elements referencing traditional kiosks

would not be discordant with the modern shop fronts against which it would be set, the introduction of the kiosk in this location would significantly affect the sense of openness and spaciousness of the frontage which I have identified above. In this context the reduction in openness and spaciousness would result in harm and would fail to preserve the character and appearance of the CA.

19. Further, the visual impact of the kiosk would be increased by the large illuminated advertising panel, which would be a dominating feature on the structure. The panel, close to the kerbline, would be a prominent standalone illuminated feature. The panel would be unrelated to the services provided by the adjacent commercial units and would appear prominent in views along the street both during the day and in hours of darkness.
20. The luminance level and rate of image transition could be controlled by condition and such forms of advertisement are becoming increasingly familiar on the street scene. Nevertheless, the appeal proposal would, as a result of the internal illumination associated with the panel, its position adjacent to the kerb and changing images, create an additional discordant feature within the street scene, adding visual clutter and hence would not preserve or enhance the character or appearance of the CA. To this extent significant harm would be caused to the character and appearance, and hence to the visual amenity of the area.
21. Even without displaying an advertisement, the illuminated screen would be a discordant feature within the street scene adding unnecessary visual clutter and hence would not preserve or enhance the character or appearance of the CA.
22. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area. In addition, Paragraph 193 of the Framework requires when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
23. Whilst, within the wider area, there are other examples of illuminated advertisements mounted on street furniture near the kerbline, including digital advertisements, these are some distance from the appeal site or not located within the context of this particular street frontage.
24. No pedestrian count data has been provided by either party in support of their case. However, the proposal site lies on a busy commercial street where pedestrian volumes are forecast to increase following rail network improvements<sup>1</sup>. With the incidence of the Coronavirus, more emphasis is being put on encouraging pedestrian movement whilst maintaining safe social distancing, requiring additional useable pavement width.
25. With regard to the current layout of the street and footway width the replacement of the kiosk would result in a reduction in width of available footway. The proposal would be located close to, and in line with, an existing street tree. Whilst the kiosk would leave a clear width of footway in excess of recommended minimum width for high footfall locations contained within

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<sup>1</sup> Crossrail and High Speed 2 projects

- Appendix B of the Transport for London (TfL) guidance document entitled 'Pedestrian Comfort Guidance for London', the spacing between obstacles would be likely to result in pedestrians being forced to repeatedly give way or, in the alternative, step into the live carriageway with associated risk of accident.
26. The Metropolitan Police Crime Prevention Design Advisor has identified that, associated with their current low levels of use, telephone kiosks within the Borough have become crime generators and focal points for anti-social behaviour (ASB).
  27. It is possible that the structure could attract ASB such as urinating against or within the structure and vandalism/graffiti. The appellants' proposed maintenance regime would be likely to reduce the effects of such ASB. However, the form of the structure provides a degree of screening for such behaviour and would be likely to encourage it.
  28. Levels of illumination from the kiosk could be controlled through a suitable planning condition and I have little substantive evidence before me to demonstrate that the illumination from a kiosk in this location would have an adverse effect on CCTV coverage. However the substantial form of the kiosk, with screening panels would reduce natural surveillance and so use of the kiosk to screen illegal activities such as drug dealing and use could increase, notwithstanding the maintenance regime proposed. Bringing these matters together I find that the proposed kiosk would, overall, have a harmful effect on pedestrian movement and public safety.
  29. It is proposed to remove two kiosks further along the street. Their removal would have the benefit of fewer structures in their local streetscape, and I have no reason to object to their removal. Such de-cluttering of the streetscape is supported within the TfL Streetscape Guidance Fourth Edition -2019 Revision 1. These kiosks are positioned towards the centre of the footway and their removal would result in a modest benefit in aiding the flow of pedestrians along the footway. Therefore, I attach moderate weight to any potential benefits that could arise from this.
  30. The appellants identify that the inclusion of the advertisement panel is necessary to facilitate the proposed upgrading of their kiosk stock. However, there is little evidence before me to demonstrate that the inclusion of advertising in the form proposed is the only way of achieving this end and so I give this argument limited weight.
  31. Drawing these points together, I conclude that in respect of Appeal A the development would fail to preserve the character and appearance of the CA and wider street scene. The proposal would therefore not comply with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would also be contrary to Policies D1 and D2 of the Camden Local Plan -2017- (the Local Plan) in as much as these require development to respect local context and character and preserve or enhance the historic environment and heritage assets.
  32. The above identified harm would be less than substantial taking into account paragraph 196 of the Framework. The Framework directs that where a development proposal would lead to less than substantial harm, this harm

should be weighed against the public benefits of the proposal. I deal with this matter below.

33. Furthermore, the proposal would have a harmful effect on pedestrian movement and public safety and so it would be contrary to Policies G1, A1, C6, T1 and C5 of the Local Plan in as much as these, amongst other things, promote streets and public areas which are fully accessible, easy and safe to walk through and provide high quality footpaths and pavements that are wide enough for the number of people expected to use them, and resist development that fails to adequately address transport impacts affecting communities and the existing transport network.
34. For the reasons outlined above, I conclude that in respect of Appeal B the proposed digital advertising panel would be harmful to the CA and hence to amenity and therefore would not accord with Policies D1, D2 and D4 of the Local Plan in as much as these require development to respect local context and character, preserve or enhance the historic environment and heritage assets and to avoid contributing to an unsightly proliferation of signage in the area and so are material in this case.
35. In respect of Appeal A, the kiosk would provide a number of services to members of the public, which I understand to be at no cost to end users, including local information provided by the Council and travel and emergency information. The proposal would remove two other kiosks of unattractive appearance, thus reducing overall street clutter within the Borough and assisting pedestrian movement. The proposal would make provision for the maintenance and upkeep of the new kiosk. For each of the kiosks removed a payment would be received to enable the planting of a street tree within the Borough, which would provide wider environmental benefits.
36. The Framework supports the expansion of electronic communication networks which are essential to economic growth and social well-being. Notwithstanding that there are other facilities in the area that provide similar services, the proposal would provide some minor public benefit through increased competition. In addition, the kiosks inclusive design (including accessibility and shelter for the mobility impaired) weighs moderately in favour of the proposal. Whilst these are positive matters to weigh in the overall planning balance, they are not of sufficient magnitude to outweigh the less than substantial harm caused by the kiosk to the character and appearance of the CA.
37. In respect of Appeal B, the advertisement screen would provide local information provided by the Council and emergency information. The Framework supports the expansion of electronic communication networks which are essential to economic growth and social well-being. Whilst these are positive matters to weigh in the overall planning balance, they are not of sufficient magnitude to outweigh the harm caused by the advertisement to the amenity of the area.

### **Other Matters**

38. I note that the main parties engaged in a prolonged process of pre-application discussions, however, such participation, though laudable, is not a guarantee of success. I further note that the appellants have expressed concerns that the Council has been inconsistent in their decision making process. That, however, is a matter between the appellants and the Council.

39. My attention has been drawn by both of the main parties to other appeal decisions in regard to telephone kiosks and advertisements in other local planning authorities. However I have little information before me to draw a comparison between these cases and the proposals before me, particularly in regard to the design of the proposed kiosk and advertisement screen in the context of their setting. In any case, I have determined these appeals on their individual merits and with regard to current planning legislation.

**Conclusions – Appeals A & B**

40. For the above reasons I conclude that Appeal A and Appeal B should be dismissed.

*I Dyer*

INSPECTOR



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## Appeal Decisions

Site visit made on 11 October 2022

**by Colin Cresswell BSc (Hons) MA MBA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 2 November 2022**

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### **Appeal A- Ref: APP/X5210/W/22/3297273**

#### **Pavement o/s 39 Tottenham Court Road, Tottenham Court Road, London W1T 2AR**

- 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 Mr James Browne (BT Telecommunications Plc) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2021/3912/P, dated 29 July 2021, was refused by notice dated 3 March 2022.
  - The development proposed is installation of 1no.new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosk(s).
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### **Appeal B- Ref: APP/X5210/W/22/3297276**

#### **Pavement o/s 39 Tottenham Court Road, Tottenham Court Road, London W1T 2AR**

- 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 James Browne (BT Telecommunications Plc) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2021/4354/A, dated 29 July 2021, was refused by notice dated 3 March 2022.
  - The advertisement proposed is installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosk(s).
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### **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Procedural Matters**

3. 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.
4. Both appeals concern the same proposal for a kiosk. Appeal A seeks planning permission for the kiosk itself, whereas Appeal B seeks advertisement consent for the advertising display which would be attached to the kiosk.



## **Main Issues**

5. The main issues in Appeal A are:

- the effect on the proposal on the character and appearance of the area, including the setting of designated heritage assets.
- the effect of the proposal on pedestrian movement.
- the effect of the proposal on crime.

The main issues in Appeal B are:

- the effect of the proposal on visual amenity.
- the effect of the proposal on public safety.

## **Reasons**

### **Appeal A**

#### *Character and appearance*

6. This part of Tottenham Court Road is characterised by shops, offices and commercial premises and is a particularly busy area for traffic and pedestrians. Although the pavement is relatively wide and open at this point, it contains various items of street furniture which give it a somewhat cluttered appearance. Alongside rows of trees on the pavement, there are also a number of existing telephone boxes, metal street cabinets, litter bins and a cabin containing a mobile phone repair business.
7. Buildings in the area of a generally mixed appearance. The proposed kiosk would be situated outside a contemporary style glass fronted building with HSBC, Superdrug and Natwest occupying the ground floors. Other parts of the street are dominated by older style properties of high architectural merit. Indeed, the site is immediately adjacent to both the Charlotte Street and Bloomsbury Conservation Areas as well as being close to some listed buildings. This includes 19 Percy Street, a Grade II listed building which the kiosk would directly face on the corner of the street. However, due to the commercial nature of Tottenham Court Road and the relatively small size of the kiosk in the context of the wider street scene, it seems to me that the proposal would not harm the setting of any designated heritage assets. As such, there would be no conflict with Policy D2 of the Local Plan<sup>1</sup>, which aims to protect the qualities of listed buildings and Conservation Areas.
8. While the proposed kiosk would not interfere with the way in which the surrounding buildings are viewed, it would nevertheless be a very conspicuous feature on the pavement, appearing more as a large, flat panel rather than a traditional phone box. Not only would it be notably taller and wider than the existing kiosks, it would also present face-on to those walking along this part of the street. Its solid, angular profile combined with its height would make the kiosk appear far more conspicuous than the existing phone boxes despite its slim design and relatively small footprint.
9. That said, the proposal would involve the removal of existing BT kiosks which would help to reduce the overall quantity of street furniture on this part of the

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<sup>1</sup> Camden Local Plan 2017

- pavement. I am also conscious that the existing BT kiosks are dated and in a poor state of repair, with some being covered in graffiti and showing signs of physical damage. Refreshing the old kiosks with a more modern installation therefore has some potential to create a cleaner and more visually pleasing street scene than exists at present.
10. However, the Police say that the area is prone to criminal activity and the main reason why the existing BT kiosks are something of an eyesore is that they have been vandalised and poorly maintained. If the proposed new kiosk were to be vandalised or to fall into similar disrepair, it would become even more of an eyesore than the existing kiosks due to its increased height, width, and general prominence. Based on my own observations of the site and the written evidence, it seems highly likely that it would be prone to vandalism. I have considered the BT Product Statement, which indicates that the kiosk would be regularly cleaned and checked for damage. Although I have no reason to doubt that this is the current intention, circumstances can change over time and there is no legal mechanism in place to ensure that an appropriate maintenance plan is implemented in perpetuity.
  11. On this basis, I am unable to determine that the proposal would have a positive effect on the street scene in this location. Indeed, without a mechanism in place to ensure that the new kiosk is properly maintained, it is probable that it would fall into a similar level of disrepair as the existing kiosks. It would then become an unsightly feature which would significantly distract from the quality of the local street scene. This adds to my concerns about the visual prominence of the structure. In reaching this decision, I am mindful that the proposed kiosk would become a permanent feature in a particularly busy part of Tottenham Court Road where it would be highly visible.
  12. I therefore conclude that the proposal would have a harmful effect on the character and appearance of the area. There would be conflict with Policies G1 and D1 of the Local Plan, which aim to maintain high standards of design. The proposal would also conflict with the objective in Part 3 of the Fitzrovia Area Action Plan<sup>2</sup> to enhance the interaction between streets and the ground floors of buildings by removing visual clutter and encouraging high quality design. Although the proposal would help to reduce visual clutter by removing the existing BT kiosks and replacing them with a single unit, it would not maintain high standards of design for the reasons set out above.

#### *Pedestrian movement*

13. The proposed kiosk would inevitably obstruct some lines of sight along the pavement due to its height, width, and lack of visual permeability. However, the pavement is relatively wide at this point and, in practice, pedestrians would be able to see adequately in either direction with plenty of room to manoeuvre. While the kiosk would be near a pedestrian crossing, it would be seen in its relatively slim side-profile from here and so would be unlikely to distract those crossing the road or otherwise cause a significant obstruction. Furthermore, the removal of the existing BT kiosks would result in a net reduction of street furniture, enabling a more open pavement overall.
14. This leads me to conclude that the proposal would have an acceptable effect on pedestrian movement. There would be no conflict with Policy T1 of the Local

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<sup>2</sup> Fitzrovia Area Action Plan, adopted March 2014

Plan which, amongst other things, aims to promote walking. Nor would there be any conflict with Policy C6 which promotes accessible development.

### *Crime*

15. I understand that there are incidents of street crime and anti-social behaviour in this area and have considered the comments raised by the Police with regard to this matter. However, based on the evidence provided, I am not convinced that the proposed kiosk is likely to worsen the situation. Although it would be possible for people to loiter around the new kiosk or hide behind it, this is also the case with the existing BT kiosks. The existing kiosks are not fully transparent as they have a solid panel on the back and much of the glass is obscured by advertising panels. In fact, it seems to me that the removal of the existing BT kiosks would give fewer opportunities for people to hide as they cover a greater area of the pavement than the proposed kiosk would. While the new kiosk would not be enclosed, I saw on my visit that some of the existing kiosks lack doors and so are at least partially open to the pavement. Hence it seems unlikely that the proposal would increase opportunities for bag snatching or other crime over and above the existing situation.
16. I therefore conclude that the proposal would have an acceptable effect on crime. There would be no conflict with Policy C5 of the Local Plan which promotes safer streets and public areas.

### *Other matters*

17. Apart from a public telephone, the proposed new kiosk would incorporate other features including device charging, public Wi-Fi and wayfinding. However, relatively little information has been provided to indicate the need for such facilities in this specific location. In the absence of such evidence, I am unable to determine that these benefits would clearly outweigh the harm to character and appearance that I have identified above.
18. My attention has been drawn to a number of planning appeals concerning kiosks in other locations. While I appreciate the similarities between those appeals and the current case in terms of kiosk design, there are nonetheless marked differences between the characteristics of each individual site and proposal. As such, these appeals do not establish a particularly convincing precedent for the current case.

## **Appeal B**

### *Visual amenity*

19. Although the Council has quoted various development plan policies in its reasons for refusal in Appeal B, the Regulations<sup>3</sup> limit my considerations to issues of public safety and amenity. Nonetheless, it seems to me that many of the planning concerns which were relevant in Appeal A (for the kiosk) are equally relevant in Appeal B (for the advertising).
20. The proposed advertising display would be broadly compatible with the commercial nature of street frontage in this location and the illuminated shop fronts. However, it would be a very prominent feature on the pavement due to its size and positioning. For similar reasons to those already covered under

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<sup>3</sup> Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Appeal A, the display would be unsightly as it would be highly vulnerable to being vandalised or falling into long-term disrepair. I therefore conclude on this issue that the proposal would harm visual amenity.

### *Public Safety*

21. The proposed advertising display would be visible to drivers approaching the pedestrian crossing. However, I do not consider that it would compromise highway safety. There is already a prevalence of shopfront advertising and illuminated signage here and so drivers are unlikely to pay undue attention to an additional advertising display. Planning conditions could also be imposed to control brightness and the frequency at which different adverts are displayed. This would further reduce the chances of distraction. The proposal would have little impact on those crossing the road as the display would be seen from a side-on perspective and so would not be fully visible. I therefore conclude that the proposal would have an acceptable effect on public safety.

### **Conclusion**

#### **Appeal A**

22. The proposal would have an acceptable effect on pedestrian movement and crime. However, this does not outweigh the harm to character and appearance that has been identified. The appeal is therefore dismissed.

#### **Appeal B**

23. The proposal would be acceptable in terms of public safety but this does not outweigh the harmful effect it would have on visual amenity. The appeal is therefore dismissed.

*C Cresswell*

INSPECTOR



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## Appeal Decisions

Site visit made on 10 May 2018

by **C L Humphrey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> May 2018

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### **Appeal A - Ref: APP/H5390/W/17/3192440** **Outside 442 Uxbridge Road, London W12 0NS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00970/TEL56, dated 9 March 2017, was refused by notice dated 28 June 2017.
  - The development proposed is 'Replacement Telephone Kiosk.'
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### **Appeal B - Ref: APP/H5390/Z/17/3192478** **Outside 442 Uxbridge Road, London W12 0NS**

- 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 Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00971/ADV, dated 9 March 2017, was refused by notice dated 11 December 2017.
  - The advertisement proposed is 'Internally illuminated digital panel as integral part of Telephone Kiosk.'
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## Decisions

### *Appeal A*

1. The appeal is allowed and approval is granted under the provisions of Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a replacement telephone kiosk at land outside 442 Uxbridge Road, London W12 0NS in accordance with the terms of the application Ref 2017/00970/TEL56, dated 9 March 2017, and the plans and documents submitted with it.

### *Appeal B*

2. The appeal is dismissed.

## Preliminary Matters

3. Policies from the Core Strategy, Development Management Local Plan and Planning Guidance Supplementary Planning Document set out in the Council's decision notices have now been replaced by policies from the Local Plan (LP)

and Planning Guidance Supplementary Planning Document (SPD), which were adopted in February 2018 after the appeals were submitted. The design, heritage conservation and enhancement and amenity protection aims of both sets of policies are similar so neither party has been prejudiced by this change in policy circumstances.

4. Although not determinative in the case of either appeal, I have had regard to these policies as a material consideration insofar as they are relevant to the appeal proposals.

### **Main Issues**

5. The main issue in Appeal A is the effect of the siting and appearance of the proposed telephone kiosk upon the character and appearance of the area.
6. The main issues in Appeal B are the effect of the proposed advertisement upon amenity and public safety.

### **Reasons**

#### *Appeal A*

7. The appeal proposal would replace an existing kiosk and would be sited in the same position, close to the outside edge of the footway. It would be an open sided structure with a similar height and footprint to the existing kiosk, and the black finish would reflect the predominantly dark coloured street furniture in the surrounding area. Accordingly the proposal would not add to clutter and would be no more visually prominent than the existing kiosk, assimilating well into the street scene.
8. The Council's delegated report refers to appeals relating to telephone kiosks on Goldhawk Road and Lillie Road. However, I have not been provided with details of these other cases and so cannot draw comparisons with the appeal proposal. Besides, I must determine the appeal on its own merits and have done so.
9. For the reasons set out above I conclude that the siting and appearance of the proposed telephone kiosk would not have a harmful effect upon the character and appearance of the area. Therefore, the appeal proposal would accord with the design aims of Policy 6.10B of the London Plan and LP Policies DC1, DC2 and DC10.

#### *Appeal B*

10. The Planning Practice Guidance<sup>1</sup> states that, in assessing amenity, regard should be had to the local characteristics of the neighbourhood. This part of Uxbridge Road comprises a wide range of retail and other commercial uses with associated advertisements, some of which are illuminated. However, these are generally fascia signs on the ground floor units, whilst roadside adverts in the vicinity are confined to posters within bus shelters and some telephone kiosks.
11. The proposed advertisement would be incorporated in a modest freestanding structure in a prominent roadside location facing west down a long and straight stretch of Uxbridge Road. It would therefore be highly visible in long-range views along the street. The display of a sequential series of static digital images would be conspicuous and eye-catching and would not integrate successfully

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<sup>1</sup> Paragraph: 079 Reference ID: 18b-079-20140306

into the street scene. As a result, while the luminance level and rate of image transition could be controlled by condition, the appeal proposal would nevertheless create an isolated and discordant feature.

12. The appellant has referred to a number of existing and consented adverts in the surrounding area. However, based on the evidence before me and my observations on site, there are no digital adverts in situ or with extant consent on the same side of the road in the immediate vicinity of the appeal site, and it is within this context that I have considered the appeal proposal. Whilst I note the Inspectors' findings in respect of the digital nature of advertisement displays in a number of other appeals<sup>2</sup>, I do not have full details of these cases and so am not able to make comparisons with the appeal proposal. In any event, I must determine the appeal on its own merits and have done so.
13. Whilst not a reason for refusal, I note that the Council's Highways officer objected to the proposal and that the delegated report states 'the introduction of an LED screen at this point could result in an increase in driver distraction and accordingly be a risk to pedestrian safety.' Given the horizontal and vertical alignment of this section of Uxbridge Road, east-bound drivers would be afforded ample advanced sight of the advertisement so the proposed display would not present a distraction for drivers taking reasonable care. I therefore conclude that the proposed advertisement would not have a harmful effect upon public safety. However, an absence of harm in this regard is a neutral matter which does not weigh for or against the proposal.
14. For the reasons set out above, I conclude that the proposed advertisement would have a harmful effect upon amenity. Consequently, the proposal would fail to accord with the amenity protection aims of LP Policy DC9.

### **Conditions**

15. In respect of Appeal A, the Council has suggested the imposition of conditions including removal of the existing kiosk, a time limit on the commencement of development, compliance with approved details and removal of the proposed telephone kiosk when it is no longer required for telecommunications purposes. However, the existing kiosk would have to be removed to make way for the replacement kiosk and the other matters are covered by standard conditions set out in Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I do not consider that it is necessary to add to these standard conditions.
16. The Council has also suggested the imposition of a condition preventing the glazed panels in the kiosk being used for the display of advertisements. However, the issues under consideration in respect of Appeal A are the siting and appearance of the kiosk itself rather than of any advertising material. As such I do not consider it would be reasonable in this case to impose a condition which would add to the conditions and limitations set out in Schedule 3, Part 1, Class 16 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

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<sup>2</sup> lead case APP/R5510/Z/16/3157043, APP/V5570/Z/17/3169006 and APP/V5570/Z/17/3167080

## **Conclusions**

17. For the reasons set out above and having regard to all other matters raised, I conclude that Appeal A should be allowed and Appeal B should be dismissed.

*CL Humphrey*

INSPECTOR





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## Appeal Decisions

Site visit made on 10 May 2018

by **C L Humphrey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> May 2018

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### **Appeal A - Ref: APP/H5390/W/17/3192437** **Outside 156 Uxbridge Road, London W12 8AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application 2017/00966/TEL56, dated 9 March 2017, was refused by notice dated 28 June 2017.
  - The development proposed is 'Replacement Telephone Kiosk.'
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### **Appeal B - Ref: APP/H5390/Z/17/3192472** **Outside 156 Uxbridge Road, London W12 8AA**

- 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 Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00967/ADV, dated 9 March 2017, was refused by notice dated 11 December 2017.
  - The advertisement proposed is 'Internally illuminated digital panel as integral part of Telephone Kiosk.'
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## Decisions

### *Appeal A*

1. The appeal is allowed and approval is granted under the provisions of Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a replacement telephone kiosk at land outside 156 Uxbridge Road, London W12 8AA in accordance with the terms of the application Ref 2017/00966/TEL56, dated 9 March 2017, and the plans and documents submitted with it.

### *Appeal B*

2. The appeal is dismissed.

## Preliminary Matters

3. Policies from the Core Strategy, Development Management Local Plan and Planning Guidance Supplementary Planning Document set out in the Council's decision notices have now been replaced by policies from the Local Plan (LP)

and Planning Guidance Supplementary Planning Document (SPD), which were adopted in February 2018 after the appeals were submitted. The design, heritage conservation and enhancement and amenity protection aims of both sets of policies are similar so neither party has been prejudiced by this change in policy circumstances. Although not determinative in the case of either appeal, I have had regard to these policies as a material consideration insofar as they are relevant to the appeal proposals.

### **Main Issues**

4. The appeal site is an area of footway on the north side of Uxbridge Road within Shepherds Bush Conservation Area (CA), which is characterised by the mixture of employment, shopping, leisure and residential development focussed around Shepherds Bush Common.
5. In the case of Appeal A the main issue is whether the siting and appearance of the proposed telephone kiosk would preserve or enhance the character or appearance of the CA and its effect upon the significance of the adjacent non-designated heritage assets at 156-162 Uxbridge Road.
6. The main issue in Appeal B is the effect of the proposed advertisement upon amenity, with particular regard to the character and appearance of the CA and the significance of the adjacent non-designated heritage assets located at 156-162 Uxbridge Road.

### **Reasons**

#### *Appeal A*

7. The appeal proposal would replace an existing kiosk and would be sited in the same position, close to the outside edge of the footway. It would be open sided with a similar height and footprint as the existing structure, and the black finish would reflect the predominantly dark coloured street furniture in the area. As a result the proposal would not add to clutter and would be no more visually prominent than the existing kiosk, integrating well into the street scene.
8. The Council's delegated report refers to appeals relating to telephone kiosks on Goldhawk Road and Lillie Road. However, I have not been provided with details of these other cases and so cannot draw comparisons with the appeal proposal. Besides, I must determine the appeal on its own merits and have done so.
9. For the reasons set out above I conclude that the siting and appearance of the proposed telephone kiosk would preserve the character and appearance of the CA and that it would not have a harmful effect upon the significance of the adjacent non-designated heritage assets at 156-162 Uxbridge Road. Therefore, the appeal proposal would accord with the design and heritage conservation and enhancement aims of Policy 6.10 of the London Plan, LP Policies DC1, DC2, DC8 and DC10 and SPD Policies CAG2 and CAG3.

#### *Appeal B*

10. The Planning Practice Guidance<sup>1</sup> states that, in assessing amenity, regard should be had to the local characteristics of the neighbourhood. Uxbridge Road is a bustling street comprising a wide range of retail and commercial uses with associated advertisements, many of which are illuminated. However, these are

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<sup>1</sup> Paragraph: 079 Reference ID: 18b-079-20140306

generally fascia signs on the ground floor units, whilst roadside adverts in the vicinity are confined to posters within some kiosks. Shepherds Bush Common lies opposite the site and this large open green space provides a quiet backdrop to the surrounding built form.

11. The proposed advertisement would be incorporated in a freestanding structure in a prominent roadside location facing west down a long and straight stretch of Uxbridge Road. Thus, it would be highly visible in long-range views along the street and towards the adjacent non-designated heritage assets and Common. The display of a sequential series of static digital images would be vivid and conspicuous, and would not assimilate well into the street scene. Thus, although the luminance level and rate of image transition could be controlled by condition, the appeal proposal would nevertheless create an isolated and discordant feature.
12. The appellant has referred to a number of digital adverts on bus shelters which have been granted consent at various locations in the wider area. I do not have full details of these cases although, based upon the submitted evidence, these other sites are between 170 – 275m from the appeal site. Consequently I cannot draw comparisons with the individual site circumstances of the case before me. Whilst I note the Inspectors' findings in respect of the digital nature of advertisement displays proposed in a number of appeals<sup>2</sup>, I do not have full details of these cases and so cannot make comparisons with the appeal proposal. In any event, I must determine the appeal on its own merits and have done so.
13. For the reasons set out above, I conclude that the proposed advertisement would have a harmful effect upon amenity, would fail to preserve or enhance the character and appearance of the CA and would have a harmful effect upon the significance of the adjacent non-designated heritage assets located at 156-162 Uxbridge Road. Consequently, the proposal would fail to accord with the amenity protection and heritage conservation and enhancement aims of LP Policies DC8 and DC9.

## Conditions

14. In respect of Appeal A, the Council has suggested the imposition of conditions including removal of the existing kiosk, a time limit on the commencement of development, compliance with approved details and removal of the proposed telephone kiosk when it is no longer required for telecommunications purposes. However, the existing kiosk would have to be removed to make way for the replacement kiosk and the other matters are covered by standard conditions set out in Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I do not consider that it is necessary to add to these standard conditions.
15. The Council has also suggested the imposition of a condition preventing the glazed panels in the kiosk being used for the display of advertisements. However, the issues under consideration in respect of Appeal A are the siting and appearance of the kiosk itself rather than of any advertising material. As such I do not consider it would be reasonable in this case to impose a condition which would add to the conditions and limitations set out in Schedule 3, Part 1,

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<sup>2</sup> lead case APP/R5510/Z/16/3157043, APP/V5570/Z/17/3169006 and APP/V5570/Z/17/3167080

Class 16 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

**Conclusions**

16. For the reasons set out above and having regard to all other matters raised, I conclude that Appeal A should be allowed and Appeal B should be dismissed.

*CL Humphrey*

INSPECTOR



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## Appeal Decisions

Site visit made on 10 May 2018

by **C L Humphrey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> May 2018

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### **Appeal A - Ref: APP/H5390/W/17/3192419 Outside 74 Shepherd's Bush Road, London W6 7PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00974/TEL56, dated 9 March 2017, was refused by notice dated 28 June 2017.
  - The development proposed is 'Replacement Telephone Kiosk'.
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### **Appeal B - Ref: APP/H5390/Z/17/3192470 Outside 74 Shepherd's Bush Road, London W6 7PH**

- 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 Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00978/ADV, dated 9 March 2017, was refused by notice dated 11 December 2017.
  - The advertisement proposed is 'Internally illuminated digital panel as integral part of Telephone Kiosk.'
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## Decisions

### *Appeal A*

1. The appeal is allowed and approval is granted under the provisions of Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a replacement telephone kiosk at land outside 74 Shepherd's Bush Road, London W6 7PH in accordance with the terms of the application Ref 2017/00974/TEL56, dated 9 March 2017, and the plans and documents submitted with it.

### *Appeal B*

2. The appeal is dismissed.

## Preliminary Matters

3. Policies from the Core Strategy, Development Management Local Plan and Planning Guidance Supplementary Planning Document set out in the Council's decision notices have now been replaced by policies from the Local Plan (LP)

and Planning Guidance Supplementary Planning Document (SPD), which were adopted in February 2018 after the appeals were submitted. The design, heritage conservation and enhancement and amenity protection aims of both sets of policies are similar so neither party has been prejudiced by this change in policy circumstances. Although not determinative in either appeal, I have had regard to these policies as a material consideration insofar as they are relevant to the proposals.

### **Main Issues**

4. The appeal site is an area of footway on the west side of Shepherd's Bush Road within Melrose Conservation Area (CA), which derives its character from the late 19th century residential terraces within its core and the terraces with ground floor retail units lining Shepherd's Bush Road at its eastern boundary.
5. In the case of Appeal A the main issue is whether the siting and appearance of the proposed telephone kiosk would preserve or enhance the character or appearance of the CA.
6. The main issue in Appeal B is the effect of the proposed advertisement upon amenity and whether it would preserve or enhance the character or appearance of the CA.

### **Reasons**

#### *Appeal A*

7. The appeal proposal would replace an existing kiosk and would be positioned in the same location, set in slightly from the edge of the generous footway. The new kiosk would be open sided with a comparable height and footprint as the existing structure, and the black finish and straightforward design would reflect nearby street furniture. As a result the proposal would be no more visually intrusive than the existing kiosk and would integrate well into the street scene.
8. Whilst the Council's delegated report refers to appeal decisions relating to telephone kiosks on Goldhawk Road and Lillie Road I have not been provided with full details of these cases, and so cannot draw comparisons with the appeal proposal before me. In any event, I must determine the appeal on its own merits and have done so.
9. For the reasons set out above I conclude that the siting and appearance of the proposed telephone kiosk would preserve the character and appearance of the CA. Consequently, the appeal proposal would accord with the design and heritage conservation and enhancement aims of London Plan Policy 6.10B, LP Policies DC1, DC2, DC8 and DC10 and SPD Policies CAG2 and CAG3.

#### *Appeal B*

10. The Planning Practice Guidance<sup>1</sup> states that, in assessing amenity, regard should be had to the local characteristics of the neighbourhood. Whilst development along the western side of Shepherd's Bush Road comprises a range of retail and commercial uses with associated advertisements, some of which are illuminated, these are mostly fascia signs on the ground floor units. Roadside adverts are limited to the static non-illuminated posters within the existing telephone kiosk and a digital display integrated into the bus shelter to

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<sup>1</sup> Paragraph: 079 Reference ID: 18b-079-20140306

the north. Development on the opposite side of the road principally comprises residential uses, mature trees line the road and, overall, the area has a fairly subdued appearance.

11. The proposed advertisement would be incorporated in a freestanding kiosk situated in a prominent roadside location near the pedestrian refuge which provides a crossing point over Shepherd's Bush Road, and would face south down the road. The display of a sequential series of static digital images on this structure would be vibrant and conspicuous, and the proposal would be highly visible to pedestrians crossing the road and in long-range views from the south. Therefore, while the luminance level and the rate of image transition could be controlled by condition, the advertisement would create an isolated and inharmonious feature in the street scene.
12. The appellant has referred to the Inspectors' findings in respect of the digital nature of advertisement displays proposed in a number of appeals<sup>2</sup>. I do not have full details of these cases and so am unable to draw comparisons with the appeal proposal. Besides, I must determine the appeal on its own merits.
13. For the foregoing reasons, I conclude that the proposed advertisement would have a harmful effect upon amenity and would fail to preserve or enhance the character and appearance of the CA. Therefore, the proposal would not accord with the amenity protection and heritage conservation and enhancement aims of LP Policies DC8 and DC9.

### **Conditions**

14. In respect of Appeal A, the Council has suggested the imposition of conditions including removal of the existing kiosk, a time limit on the commencement of development, compliance with approved details and removal of the proposed telephone kiosk when it is no longer required for telecommunications purposes. However, the existing kiosk would have to be removed to make way for the replacement kiosk and the other matters are covered by standard conditions set out in Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I do not consider that it is necessary to add to these standard conditions.
15. The Council has also suggested the imposition of a condition preventing the glazed panels in the kiosk being used for the display of advertisements. However, the issues under consideration in respect of Appeal A are the siting and appearance of the kiosk itself rather than of any advertising material. As such I do not consider it would be reasonable in this case to impose a condition which would add to the conditions and limitations set out in Schedule 3, Part 1, Class 16 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

### **Conclusions**

16. For the reasons set out above and having regard to all other matters raised, I conclude that Appeal A should be allowed and Appeal B should be dismissed.

*CL Humphrey*  
INSPECTOR

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<sup>2</sup> lead case APP/R5510/Z/16/3157043, APP/V5570/Z/17/3169006 and APP/V5570/Z/17/3167080



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## Appeal Decisions

Site visit made on 10 May 2018

**by C L Humphrey BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> May 2018**

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### **Appeal A - Ref: APP/H5390/W/17/3188594** **Outside 88-90 North End Road, London W14 9EY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00979/TEL56, dated 9 March 2017, was refused by notice dated 29 June 2017.
  - The development proposed is 'Replacement Telephone Kiosk'.
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### **Appeal B - Ref: APP/H5390/Z/17/3188471** **Outside 88-90 North End Road, London W14 9EY**

- 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 Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00981/ADV, dated 9 March 2017, was refused by notice dated 8 September 2017.
  - The advertisement proposed is 'Internally illuminated digital panel as integral part of Telephone Kiosk.'
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## Decisions

### *Appeal A*

1. The appeal is allowed and approval is granted under the provisions of Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a replacement telephone kiosk at land outside 88-90 North End Road, London W14 9EY in accordance with the terms of the application Ref 2017/00979/TEL56, dated 9 March 2017, and the plans and documents submitted with it.

### *Appeal B*

2. The appeal is dismissed.

## Preliminary Matters

3. Policies from the Core Strategy, Development Management Local Plan and Planning Guidance Supplementary Planning Document set out in the Council's decision notices have now been replaced by policies from the Local Plan (LP)



and Planning Guidance Supplementary Planning Document (SPD), which were adopted in February 2018 after the appeals were submitted. The design, heritage conservation and enhancement and amenity protection aims of both sets of policies are similar so neither party has been prejudiced by this change in policy circumstances.

4. Although not determinative in the case of either appeal, I have had regard to these policies as a material consideration insofar as they are relevant to the appeal proposals.

### **Main Issues**

5. The appeal site is an area of footway on the west side of North End Road within Barons Court Conservation Area (CA), which is characterised by unified groups of residential development laid out in a tightly-knit grid pattern, together with Barons Court and West Kensington Underground Stations and the open space of Hammersmith Cemetery.
6. In the case of Appeal A the main issue is whether the siting and appearance of the proposed telephone kiosk would preserve or enhance the character or appearance of the CA.
7. The main issue in Appeal B is the effect of the proposed advertisement upon amenity and whether it would preserve or enhance the character or appearance of the CA.

### **Reasons**

#### *Appeal A*

8. The appeal proposal would replace an existing kiosk and would be constructed in the same position, sited close to the edge of the footway. It would be open sided with a similar height and footprint as the existing structure, and the black finish would reflect street furniture in the vicinity. As a result the proposal would be no more visually prominent than the existing kiosk, would assimilate well into the street scene and would not add to clutter.
9. For the reasons set out above I conclude that the siting and appearance of the proposed telephone kiosk would preserve the character and appearance of the CA. The appeal proposal would therefore accord with the design and heritage conservation and enhancement aims of Policy 6.10 of the London Plan, LP Policies DC1, DC2, DC8 and DC10 and SPD Policies CAG2 and CAG3.

#### *Appeal B*

10. The Planning Practice Guidance<sup>1</sup> states that, in assessing amenity, regard should be had to the local characteristics of the neighbourhood. Although North End Road comprises a wide range of retail and commercial uses with associated advertisements, some of which are illuminated, these are generally fascia signs on ground floor units. Roadside adverts are limited to static internally illuminated posters within the bus shelters to the north and south.
11. The proposed advertisement would be incorporated in a freestanding structure situated in a prominent roadside location near the pedestrian crossing outside West Kensington Station and would face east across North End Road. Thus,

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<sup>1</sup> Paragraph: 079 Reference ID: 18b-079-20140306

although not particularly visible in long-range views, the proposal would be highly conspicuous from the eastern side of the road and the crossing. The display of a sequential series of static digital images on this structure would be prominent and eye-catching. Consequently, although the luminance level and rate of image transition could be controlled by condition, the appeal proposal would create an isolated and inharmonious feature in the street scene.

12. The appellant has referred to the Inspectors' findings regarding the digital nature of advertisement displays proposed in a number of appeals<sup>2</sup>. I do not have full details of these cases and so cannot make comparisons with the appeal proposal. In any event, I must determine the appeal on its own merits and have done so.
13. For the reasons set out above, I conclude that the proposed advertisement would have a harmful effect upon amenity and would fail to preserve or enhance the character and appearance of the CA. Consequently, the proposal would be contrary to the amenity protection and heritage conservation and enhancement aims of LP Policies DC8 and DC9.

### **Conditions**

14. In respect of Appeal A, I do not consider that it is necessary to add to the standard conditions set out in Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

### **Conclusions**

15. For the reasons set out above and having regard to all other matters raised, I conclude that Appeal A should be allowed and Appeal B should be dismissed.

*CL Humphrey*

INSPECTOR

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<sup>2</sup> lead case APP/R5510/Z/16/3157043, APP/V5570/Z/17/3169006 and APP/V5570/Z/17/3167080