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## Appeal Decisions

Site visit made on 5 December 2017

**by Andrew Owen BA(Hons) MA MRTPI**

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

**Decision date: 21 December 2017**

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### **Appeal A Ref: APP/X5990/W/17/3182287**

#### **Payphone site outside 3-4 London Street, London W2 1HL**

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter 'the GPDO').
  - The appeal is made by Mr Matthew Coe of New World Payphones against the decision of City of Westminster Council.
  - The application Ref 17/03803/TELCOM, dated 28 April 2017, was refused by notice dated 21 June 2017.
  - The development proposed is replacement of existing telephone kiosk with new kiosk.
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### **Appeal B Ref: APP/X5990/Z/17/3182290**

#### **Payphone site outside 3-4 London Street, London W2 1HL**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (hereafter the 'Regulations') against a refusal to grant express consent.
  - The appeal is made by Mr Matthew Coe of New World Payphones against the decision of City of Westminster Council.
  - The application Ref 16/10270/ADV, dated 26 October 2016, was refused by notice dated 21 June 2017.
  - The advertisement proposed is an illuminated digital panel, measuring 1.650m x 0.928m, as part of new telephone kiosk.
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## **Decision**

1. Appeal A is allowed and approval is granted under the provisions of Schedule 2, Part 16, Class A of the GPDO for the siting and appearance of the replacement of existing telephone kiosk with new kiosk at payphone site outside 3-4 London Street, London W2 1HL in accordance with the terms of the application Ref 17/03803/TELCOM, dated 28 April 2017, and subject to the following condition:-
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: PY3070/001 and the updated specification document.
2. Appeal B is allowed and express consent is granted for the display of the internally illuminated digital panel, measuring 1.650m x 0.928m as part of telephone kiosk, as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:-

- 1) The advertisement hereby permitted shall be carried out in accordance with the following approved plans and documents: PY3070/001 and the updated specification document.
- 2) The advertisements displayed shall be a series of static images, which individually feature no moving elements, dynamic displays or motion pictures. The speed of change between one static image and the next shall be no quicker than 10 seconds.

### **Procedural matters**

3. The original application form for Appeal A identified the site as being the London Street/Praed Street junction, and the application form for Appeal B referred to the site as being outside 1 London Street. This was changed on the Council's decisions and on the appeal forms to 3-4 London Street. However there was still a small discrepancy between the addresses given for Appeal A and for Appeal B in that the latter excluded the words 'Payphone site outside'. In the interests of consistency and precision I have used the address given for Appeal A for both appeals in the header above.
4. I have used the descriptions of the development and the advertisement given on the Council's decisions as they succinctly and precisely describe the proposals.
5. The updated specification document submitted with the appeal only differs from that submitted with the original applications by correcting an inconsistency within the document between the dimensions shown on the plan and given in the text. I have therefore accepted the updated specification document as no parties would be prejudiced by it.

### **Main Issues**

6. Schedule 2, Part 16, Class A of the GPDO makes provision for the installation, alteration or replacement of any electronic communications equipment, subject to the prior approval process set out in paragraph A.3 whereby the developer must apply to the Council for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development. Consequently, in Appeal A the main issue is the effect of the siting and appearance of the proposal on the character and appearance of the Bayswater Conservation Area (BCA).
7. With respect to Appeal B the main issue is the effect of the advertisement on the amenity of the area including the BCA.

### **Reasons**

#### *Appeal A*

8. The BCA covers a large area between the A40 and Hyde Park/Kensington Gardens, and primarily comprises nineteenth century residential terraces. However, the shops along Praed Street also form a significant element of the townscape.
9. The proposed kiosk would be positioned adjacent to an existing phone box close to the Praed Street/London Street junction. As such, to facilitate the development, the removal of this existing kiosk would not necessarily be

- required. However it is indicated on the drawing as being for removal and its replacement forms part of the proposal on the appeal site.
10. The proposed kiosk would be marginally wider and slightly shallower than the existing box, but would be the same colour and be roughly the same height. It would be open on two sides and would contain the telephone equipment and a 24 inch wayfinder display screen.
  11. Overall its scale is similar to the existing kiosk, and its design has regard to more traditional K6 phone boxes in terms of its slightly domed roof and the fenestration pattern on the side panel. The existing phone box appears bland and dated. The proposal would therefore represent an opportunity to improve and, due to the wayfinding screen, modernise its appearance in keeping with the commercial character of this part of the BCA.
  12. The pavement on which it would be sited is populated by the chairs and tables of the restaurant at Nos 3-4 as well as a tree and a grit bin. These all restrict its unobstructed width. However the proposed kiosk would be positioned further towards the road than the existing phone box and so would provide a wider pedestrian route. Furthermore the siting of the existing box amongst these features, as well as lamp posts, traffic lights and railings, does not appear inharmonious, and therefore providing the new kiosk in generally the same location would also not be incongruous and would not add clutter.
  13. In summary, I consider the siting and appearance of the new kiosk would be acceptable and would preserve the character and appearance of the BCA.
  14. I have taken into account Policies DES 1 and DES 7 of the Unitary Development Plan (UDP) which aim to ensure development preserves the townscape, Policy S28 of the Westminster City Plan (WCP) which requires all proposals to be of the highest design quality, and the guidance in the Council's public realm strategy, Westminster Way, which aims to avoid clutter. I also have accounted for Policy S25 of the WCP which requires the conservation of heritage assets, and Policy DES 9 of the UDP which seeks the preservation of the character and appearance of conservation areas. As I have concluded that the kiosk is acceptable in terms of its siting and appearance, it therefore accords with these policies and advice.

#### *Appeal B*

15. The Praed Street/London Street junction is a busy location being immediately outside Paddington Station and surrounded by shops and restaurants. The site is outside a restaurant and there is a hot food takeaway on the opposite corner, both of which have illuminated fascia signage on their Praed Street and London Street frontages. Many of the other shops along Praed Street have illuminated adverts, and there are adverts on the shops along London Street too, albeit less prominently. In addition there is a bus stop a short distance east along Praed Street which also contains an illuminated advert. The proposed display would be smaller in size than this advert.
16. Its maximum brightness, which I understand would be below the maximum levels recommended by the Institute of Lighting Professionals, is set out in the updated specification document which forms one of the approved documents. Both parties are agreed that the images on the display should be controlled so

that they are static, and I consider such a condition would be necessary in the interests of amenity and public safety.

17. I note the dismissed appeals relating to illuminated adverts on bus stops elsewhere in the City. Nonetheless, I consider the extent of advertising surrounding the appeal site means that the proposed advert would not appear at odds with its setting. Instead, in its context, the advert would be a fitting addition to the area, commensurate with its vibrant commercial character. Consequently, I consider that the advert would not adversely affect the amenity of the BCA.
18. I have taken into account Policy DES 8 of the UDP which aims to ensure adverts are of the highest design quality, and Policies S25, S28, DES 1 and DES 9 as described above. As I have concluded that the kiosk does not harm amenity, it therefore accords with these policies.

### **Other matters**

19. The Council raise a number of concerns relating to the need for the kiosks, possible anti-social behaviour, and the usefulness of the equipment to the public who, in the main, have mobile phones providing them with the same functionality as would be provided by the development. However these are not considerations before me under the prior approval procedure. Similarly though they query the need for the adverts on the kiosks, this is not a relevant matter for my consideration under the terms of the Regulations.
20. A unilateral undertaking has been provided which seeks to remove four kiosks on Praed Street within 12 months of the grating of the consents; refurbish a number of K6 kiosks; fund the planting of a roadside tree; and to allow the Council partial use of the advert and wayfinding screen. I consider this undertaking meets the tests in paragraph 204 of the National Planning Policy Framework and therefore I have taken it into account.
21. I note there is some concern that the advert could be distracting. However, no objection has been raised by the Highways Planning Manager with regard to the advert's effect on highway safety, and I have no reason to disagree.
22. The proposal would be a short distance from the Grade II listed buildings at the Great Western Hotel and Paddington Station. However due to the small scale of the proposal, and the number of other adverts and items of street furniture nearby, I do not consider it would have any adverse effect on the setting of these listed buildings.

### **Conditions**

23. With regard to Appeal A, in addition to the conditions inherent in paragraph A.2, Part 16, Schedule 2 of the GPDO, I have added a condition specifying the relevant plans and documents in order to provide certainty.
24. Regarding Appeal B, in addition to the standard conditions set out in the Regulations, I have attached a condition specifying the relevant plans and documents in order to provide certainty. I have also imposed a condition to prevent moving images and to control the frequency of the change of adverts in the interests of amenity and public safety. The appellant suggests the maximum period between each advert be 10 seconds and, though this differs

from the Council's suggestion of 12 seconds, I do not consider 10 seconds is unreasonable.

**Conclusions**

25. For the reasons given above, and taking account of all other considerations, I conclude that Appeal A and Appeal B should both be allowed.

*Andrew Owen*

INSPECTOR