



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

Appeal A Ref: APP/X5210/W/20/3254068

Proposed Telephone Kiosk outside 12 New College Parade, Finchley Road, London NW3 5EP

- 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 against the decision of the Council of the London Borough of Camden.
 - The application Ref 2019/4101/P, dated 9 August 2019, was refused by notice dated 7 April 2020.
 - The development proposed is proposed new telephone kiosk outside 12 New College Parade, to replace the existing kiosk outside 20 Northways Parade, which would be removed.
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Appeal B Ref: APP/X5210/Z/20/3253530

Proposed Telephone Kiosk outside 12 New College Parade, Finchley Road, London NW3 5EP

- 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 against the decision of the Council of the London Borough of Camden.
 - The application Ref 2019/4900/A, dated 9 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/20/3254068

1. The appeal is dismissed.

Appeal B Ref: APP/X5210/Z/20/3253530

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. The Council's decision notice in regard to the advertisement refers to the effect of the proposal on a Conservation Area (CA). However, the Officer's Report confirms that the site does not lie within a CA and I have determined the appeal on this basis.

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 the kiosk at Northways Parade and three others in the wider area. 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 proposed 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 and appearance of the site and the 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. In this case the main issue is the effect of the proposed advertisement on amenity.

Reasons

10. The site is located outside 12 New College Parade, on the footway of Finchley Road. Finchley 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 Finchley Road having the character of a busy urban street. The buildings form parades of retail units exhibiting a mix of architectural styles, generally with more modern shop fronts below and often with residential accommodation above.

11. There is a private forecourt and a wide footway between the shop frontages and the vehicular carriageway in the vicinity of the site. In the immediate vicinity there is very little street furniture. This is of a contemporary design and comprises a litter bin, street lighting column, and a telecommunications cabinet. At the time of my visit several of the shop units had tables and chairs on the forecourt fronting their business. 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, whilst the limited street furniture gives this frontage a particularly open, uncluttered feel.
12. 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.
13. 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”.
14. 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.
15. 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.
16. 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.
17. 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 the proposal would remove a kiosk at Northways Parade, Finchley Road, this kiosk is some distance away and has no impact on the New College Parade frontage. Whilst its simple, modern design incorporating elements referencing traditional kiosks would not detract from its setting against more modern shop fronts, the

introduction of the kiosk in front of New College Parade would significantly affect the sense of openness and spaciousness of the frontage. In this context the reduction in openness and spaciousness would result in harm.

18. 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.
19. 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 a discordant feature within the street scene, creating additional visual clutter. To this extent, significant harm would be caused to the character and appearance, and thus to the amenity, of the area.
20. Even without displaying an advertisement, the illuminated screen would be a discordant feature within the street scene adding unnecessary visual clutter and hence would result in significant harm to the character and appearance of the site and the wider street scene.
21. Whilst, within the wider area, there are other examples of illuminated advertisements mounted on street furniture near the kerbline, including digital advertisements, these are not located within the context of this particular street frontage.
22. No pedestrian count data has been provided by either party in support of their case. However, notwithstanding that the frontage is identified as a secondary frontage, the proposal site lies on a busy shopping street in close proximity to train services and is likely to experience high volumes of footfall.
23. 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. However, the proposal would be located in close proximity to an existing bin and telecommunications cabinet. The Camden Streetscape Design Manual -2005- identifies that there are benefits to overall pedestrian flow by grouping street furniture in bunches. The kiosk would be positioned in line and close to existing street furniture. The proposed kiosk would have some adverse effect on pedestrian flows by increasing the length of the obstruction. However, notwithstanding the potential for obstruction of the private forecourt, the increase in the length of the obstruction would, in this instance, be unlikely to engender significant additional delay or encouragement to leave the footway and enter the carriageway.
24. 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).
25. 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.

26. 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.
27. Other kiosks that it is proposed to remove are situated some distance from the appeal site. Their removal would have the benefit of fewer structures in their local streetscape, particularly where these lie near to Listed Buildings or within Conservation Areas, and I have no reason to object to their removal. Such de-cluttering of the streetscape is supported within the Transport for London Streetscape Guidance Fourth Edition -2019 Revision 1. 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.
28. 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.
29. Drawing these points together, I conclude that in respect of Appeal A the development would result in harm to the character and appearance of the site and the wider street scene. The development would therefore be contrary to Policy D1 of the Camden Local Plan -2017- (the Local Plan) in as much as this requires development to respect local context and character.
30. Further, whilst I find that the replacement kiosk would not have a harmful effect on pedestrian movement, it would have a harmful effect on public safety. Thus, whilst it would accord with Policies G1, A1, C6 and T1 of the Local Plan in as much as these, amongst other things, promote streets and public areas which are fully accessible, easy 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, it would be contrary to Policy C5 of the Local Plan in as much as this, amongst other things, promotes safer streets and public areas which are safe to walk through.
31. For the reasons outlined above, I conclude that in respect of Appeal B the proposed digital advertising panel would be harmful to amenity and therefore would not accord with Policies D1 and D4 of the Local Plan, in as much as these require development to respect local context and character and avoid contributing to an unsightly proliferation of signage in the area and so are material in this case.
32. 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 the kiosk at Northways Parade, together with three others, thus reducing overall street clutter within the Borough. It 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.

33. 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 substantial harm caused by the kiosk to the character and appearance of the site and the wider street scene and public safety.
34. 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

35. 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.
36. 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

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

I Dyer

Inspector