



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

Appeal A Ref: APP/X5210/W/20/3253902

Proposed replacement Telephone Kiosk outside 164-167 Tottenham Court Road, London W1T 7JE

- 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 2019/4032/P, dated 7 August 2019, was refused by notice dated 7 April 2020.
 - The development proposed is proposed new telephone kiosk outside 164-167 Tottenham Court Road to replace the existing kiosks outside 101-107 Tottenham Court Road, which would be removed.
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Appeal B Ref: APP/X5210/H/20/3253546

Proposed replacement Telephone Kiosk outside 164-167 Tottenham Court Road, London W1T 7JE

- 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 2019/4927/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/20/3253902

1. The appeal is dismissed.

Appeal B Ref: APP/X5210/Z/20/3253546

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 plan submitted with the application¹ shows a proposed new kerblines. At the time of my site visit the new kerblines, as shown, was in place and I have determined this appeal in regard to the current layout of the footway and street furniture.

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 on the opposite side of the 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 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 (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 164-167 Tottenham Court Road, a building of modern design accommodating a bank on the ground floor, with offices above. 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. The footway in front of the building has recently been widened and provides a generous width between the building frontage and the vehicular carriageway in the vicinity of the site, with very limited street furniture, including a litter bin

¹ Drawing No PY3339/031

and a streetlight of contemporary design. Nearby there is a bus stop with a bus shelter which incorporates digital illuminated images. 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 development, interspersed with some older buildings. 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 improvements². 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 proposed kiosk would be positioned close to, but not in line with, a litter bin, and, in combination this would significantly reduce the available width of the footway. Notwithstanding that the proposal would leave a clear width of footway in excess of recommended minimum width for high footfall locations contained within Appendix B of the Transport for London (TfL) guidance document

² Crossrail and High Speed 2 projects

entitled 'Pedestrian Comfort Guidance for London', in practical terms this would unnecessarily impede pedestrian flow.

26. The kiosk would be located in close proximity to two automatic telling machines (ATMs) within the frontage of the bank. The Metropolitan Police Crime Prevention Design Advisor has identified that, associated with their current low levels of usage, telephone kiosks within the Borough have become crime generators and focal points for anti-social behaviour (ASB).
27. Notwithstanding the orientation of the kiosk and its open nature, the kiosk would provide of a degree of shelter from the elements and, given its proximity to the ATMs, be likely to provide a greater incentive to use the phone boxes for begging.
28. 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.
29. 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.
30. It is proposed to remove two kiosks situated opposite the site. 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. However, the kiosks are situated in line with existing obstructions within the footway and so their removal would have limited benefit in aiding the flow of pedestrians along the footway. Therefore, I attach limited weight to any potential benefits that could arise from this.
31. 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.
32. 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.
33. 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.

34. 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.
35. 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.
36. 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 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.
37. 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.
38. 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

39. 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.

40. 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

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

I Dyer

INSPECTOR



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: 17 November 2020

Appeal A Ref: APP/X5210/W/20/3253943

Telephone Kiosk outside 55-59 New Oxford Street, London WC1A 1BS

- 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 2019/4049/P, dated 7 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/Z/20/3252956

Telephone Kiosk outside 55-59 New Oxford Street, London WC1A 1BS

- 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 2019/4679/A, dated 7 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/20/3253943

1. The appeal is dismissed.

Appeal B Ref: APP/X5210/Z/20/3252956

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.

Main Issues

5. 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 an existing nearby kiosk, and remove four 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 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.
6. 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.
7. 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.
8. 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

9. The site is located on the footway outside 55-59 New Oxford Street, a building of modern design accommodating a restaurant on the ground floor, with offices above. New Oxford Street is a wide street with commercial uses on both sides. The range of shops and services provided and the high-density office accommodation in the area combine to result in New Oxford Street having the character of a busy urban street.
10. There is a footway of moderate width between the building frontage and the vehicular carriageway in the vicinity of the site, with limited street furniture including three existing telephone kiosks, one, at the appeal site, and a pair nearby. Nearby are street lights, traffic signal equipment and traffic signage. Advertising on the commercial units includes some internally illuminated signage but is generally low key and incorporates static images.
11. The buildings exhibit a mix of architectural styles, including modern development, interspersed with some older buildings, most notably Hazelwood House, a Grade II Listed Building (the LB). The significance of the LB derives from the pleasing architectural composition of the exterior. Overall the area has a pleasant sense of spaciousness despite its busy urban character. The

aforementioned attributes add positively and distinctively to the character and appearance of the CA in the immediate vicinity of the site.

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 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.
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 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.
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.
17. An existing kiosk, of more angular, enclosed design of a similar scale, with an uncared-for appearance, would be replaced. 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.
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. 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 is part of the CA or, although the kiosk would appear in long views encompassing the LB, harm its setting.

19. Nevertheless, 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. The proposed advertisement would appear in long views of the LB. However, these would be limited by the position of the kiosk in regard to the geometry of the street and would appear in the context of the existing commercial development. Thus neither the advertisement nor the illuminated screen would harm the setting of the LB.
24. 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.
25. 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. 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.
26. With regard to the current layout of the street and footway width the replacement of the existing nearby kiosks with a single kiosk in the location proposed would provide a marginal reduction in overall width of available footway. However, by moving the kiosk location to the section of footway closest to the kerb, in practical terms this would be in the section between the kiosk and the kerb, the least usable section of the footway. However, it would 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'. Given the width of the footway and the separation of the proposed kiosk from other obstructions in the footway the kiosk would, of itself, be unlikely to obstruct the footway to a degree where pedestrians would experience additional delay or encouragement to leave the footway and enter the carriageway.
27. 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).
 28. It is possible that the structure could attract ASB such as street begging, urinating against or within the structure, the placing of cards offering the services of prostitutes and vandalism/graffiti.
 29. By replacing the existing kiosk there would be no overall increase in opportunities for such behaviour. The more open nature of the proposed kiosk compared to that of the existing one and the replacement of the older, more worn kiosk and proposed improved maintenance regime would be likely to reduce the effects of ASB.
 30. 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.
 31. 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 TfL 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.
 32. 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.
 33. 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.

34. 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.
35. 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.
36. 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.
37. 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 four other kiosks in the wider area, 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.
38. 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.
39. 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

40. 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.

41. 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

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

I Dyer

Inspector



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/20/3253800

Telephone Kiosk outside 70-72 Kilburn High Road, London NW6 4HS

- 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 2019/4066/P, dated 8 August 2019, was refused by notice dated 6 April 2020.
 - The development proposed is replacement of existing telephone kiosk with new telephone kiosk.
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Appeal B Ref: APP/X5210/Z/20/3253491

Telephone Kiosk outside 70-72 Kilburn High Road, London NW6 4HS

- 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 2019/4925/A, dated 8 August 2019, was refused by notice dated 6 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/20/3253800

1. The appeal is dismissed.

Appeal B Ref: APP/X5210/Z/20/3253491

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. In their decision notice relating to Appeal B, the Council repeat the same reason for refusal twice. This is clearly an error and the committee report clarifies that the concerns of the Council relate to both the matters cited within the reasons for refusal and also the effect of the proposal on the character and appearance of the area. The Council has referred to such matters within their statement. The incongruity has been noticed by the appellants and they have covered matters relating to the effect of the advertisements on the character and appearance of the area in their evidence, including their response to the Council's statement. I therefore consider that neither party would be prejudiced by my consideration of such matters within this appeal.
6. I have used the wording within the Council's statement as providing the basis for the objection, as follows: -

" The proposed advertisement, by virtue of its location, scale, prominence, and method of illumination, would add visual clutter, detrimental to the amenity of the area and wider street scene, contrary to policies D1 (Design) and D4 (Advertisements) of the Camden Local Plan 2017".

I note that this corresponds to the wording of reasons for refusal in similar cases in the locality.
7. At the time of my site visit traffic management measures were in place to provide additional space within the vehicular carriageway for pedestrian use. Two alternative site plans have been provided, PY3292/011 RevC and PY3292/011 RevD with the application. PY3292/011 RevC indicates a proposed new pavement line and parking bays, but this was not in place when I visited.

Main Issues

8. 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 four 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 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.
9. 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.
10. 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,

and (ii) the effect of the siting of the proposed development on pedestrian movement and public safety.

11. In relation to Appeal B, the control of advertisements is exercisable only with respect to amenity and public safety. The main issues are (i) the effect of the proposed advertisement on amenity and (ii) the effect of the advertisement on public safety.

Reasons

12. The site is located on the footway outside 70-72 Kilburn High Road close to its junction with West End Lane. Kilburn High 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 Kilburn High 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.
13. There is a wide footway between the shop frontages and the vehicular carriageway in the vicinity of the site. In the immediate vicinity there is street furniture of a contemporary design, comprising of an existing telephone kiosk, cycle parking, a bollard and traffic signal equipment. Whilst both of the location plans indicate a line of pedestrian railing, none was present at the time of my site visit. In the wider area there are other items of street furniture, including street lighting columns, traffic signage, further bollards and bus stops. The latter incorporate illuminated advertisements. 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 application was accompanied by two site plans which provide alternative locations for the replacement telephone kiosk. One layout, shown on plan PY3292/011 RevC, would require the widening of the footway to make the positioning of the kiosk safe, otherwise the kiosk would provide an obstruction

- in a live vehicular carriageway and this would be unacceptable by virtue of its likelihood to cause harm to the public when travelling. I have no certainty of the delivery of, nor indication of the proposed timescale for, implementation of such works. Further, I have no certainty of the future layout of street furniture following any footway widening. I have therefore considered the proposal on the basis of the current kerblines layout, as shown on plan PY3292/011 RevD.
18. The proposed development would result in the replacement of the existing phone kiosk with a new kiosk of L-shaped cross section with a roof 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.
 19. 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.
 20. Whilst it would replace a structure of similar height and scale, as a consequence of its height, width, dark colour, illuminated panel and separation from other street furniture of a similar scale the proposed kiosk would be a prominent feature in the street scene.
 21. This proposal is one of several in the wider area of Camden seeking to rationalise kiosk provision and reduce the number of kiosks overall. The replacement kiosk 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.
 22. However, 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.
 23. 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 near the middle of the footway 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.
 24. 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.

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 in close proximity to underground services and is likely to experience high volumes of footfall. 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.
27. With regard to the current layout of the street and footway width the replacement of the existing kiosk with a kiosk in the same location as proposed would provide a marginal reduction in overall width of available footway. Notwithstanding that the proposal would 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', in practical terms this would be in the section between the kiosk and the kerb, which is the least usable section of the footway and, when the cycle parking is in use, this would already be obstructed. In these circumstances the positioning of the proposed kiosk would, of itself, be unlikely to engender additional delay or encouragement to leave the footway for pedestrians and enter the carriageway.
28. At the time of my site visit there were pedestrian barriers in the carriageway restricting the ability for pedestrians to cross Kilburn High Road. Whilst there would be no permanent obstruction to prevent pedestrians crossing the road at this point, it is not an identified pedestrian crossing. There would be little advantage in using this location to cross the road, given the close proximity of a signal controlled crossing and I have little substantive evidence before me to demonstrate that the number of pedestrians crossing the road at this point, rather than using the existing pedestrian crossing, is significant.
29. Whilst the advertisement screen would be in direct eyeline of pedestrians approaching its illumination levels could be controlled by a suitably worded planning condition and there is little substantive evidence before me to demonstrate that it would provide such a distraction as to result in pedestrians entering the adjacent carriageway. The proposed advertisement is not so close, or positioned in a location where, sight lines to the pedestrian crossing would be obstructed to any meaningful degree.
30. 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).
31. It is possible that the structure could attract ASB such as street begging, urinating against or within the structure and vandalism/graffiti and, at the time of my site visit there was a street beggar sitting against the kiosk. By replacing the existing kiosk there would be no overall increase in opportunities for such behaviour. The more open nature of the proposed kiosk compared to that of the existing one and the replacement of the older, more worn kiosks and proposed improved maintenance regime would be likely to reduce the effects of ASB.

32. 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.
33. 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.
34. 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.
35. For the reasons outlined above, I conclude that in respect of Appeal A the development would have a harmful effect on 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.
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 not result in harm to public safety, and would therefore be in accordance with Policies A1, D4 and T1 of the Local Plan, in as much as these seek to resist development that fails to adequately assess and address transport impacts affecting the existing transport network, adversely impact upon public safety and ensure that developments are easy and safe to walk through. The proposal would also accord with the Transport for London Streetscape Guidance Fourth Edition -2019 Revision 1- the in as much as this requires that sightlines at crossings should not be obstructed by street furniture.
38. However, I have found that the proposal would be harmful to amenity and therefore would not accord with Policies D1 and D4 of the Local Plan in so 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.

39. 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 four other kiosks further afield, 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.
40. 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.
41. 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

42. 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.
43. 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

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

I Dyer

INSPECTOR



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/20/3253982

Telephone Kiosk outside 2 Harben Parade, Finchley Road, London NW3 6JP

- 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 2019/4079/P, dated 8 August 2019, was refused by notice dated 6 April 2020.
 - The development proposed is replacement of existing telephone kiosk with new telephone kiosk.
-

Appeal B Ref: APP/X5210/Z/20/3253489

Telephone Kiosk outside 2 Harben Parade, Finchley Road, London NW3 6JP

- 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 2019/4924/A, dated 8 August 2019, was refused by notice dated 6 April 2020.
 - The advertisement proposed is illuminated digital advertisement display integrated within replacement Telephone Kiosk.
-

Decisions

Appeal A Ref: APP/X5210/W/20/3253982

1. The appeal is dismissed.

Appeal B Ref: APP/X5210/Z/20/3253489

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.

Main Issues

5. 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 other kiosks 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 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.
6. 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.
7. 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.
8. In relation to Appeal B, the control of advertisements is exercisable only with respect to amenity and public safety. In this case the main issues are (i) the effect of the proposed advertisement on amenity and (ii) the effect of the proposed advertisement on public safety.

Reasons

9. The site is located outside 2 Harben 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.
10. There is 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 an existing telephone kiosk and a street lighting column carrying road signage. In the wider area there are other items of street furniture, most notably a set of traffic signals associated with a controlled pedestrian crossing. 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.

11. 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.
12. 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”.
13. 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.
14. 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.
15. 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.
16. 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 and separation from other street furniture 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. 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 facades 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.
18. However, 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.

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, adding 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 kerblines, 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, the proposal site lies on a busy shopping street in close proximity to train services and is likely to experience high volumes of footfall. 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.
23. 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. However, this would be in the section between the kiosk and the kerb, the least usable section of the footway. The proposal would comply with 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'. In these circumstances, the minor increase in obstruction to the passage of pedestrians would, of itself, be unlikely to engender significant additional delay or encouragement to leave the footway and enter the carriageway.
24. Whilst the advertisement screen would be in direct eyeline of pedestrians approaching its illumination levels could be controlled by a suitably worded planning condition and there is little substantive evidence before me to demonstrate that it would provide such a distraction as to result in pedestrians entering the adjacent carriageway. The proposed advertisement is not so close, or positioned in a location where, sight lines to the pedestrian crossing would be obstructed to any meaningful degree.
25. 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).
26. It is possible that the structure could attract ASB such as urinating against or within the structure and vandalism/graffiti. By replacing an existing kiosk there would be no overall increase in opportunities for such behaviour. The more open nature of the proposed kiosk compared to that of the existing one and the replacement of the old, uncared for, kiosk and proposed improved maintenance regime would be likely to reduce the effects of ASB.

27. 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.
28. Other kiosks that it is proposed to remove are situated some distance from the appeal site. 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, particularly where these lie near to Listed Buildings or within Conservation Areas, 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.
29. 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.
30. For the reasons outlined above, I conclude that in respect of Appeal A the development would have a harmful effect on 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.
31. 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.
32. For the reasons outlined above, I conclude that in respect of Appeal B the proposed digital advertising panel would not result in harm to public safety, and would therefore be in accordance with Policies A1, D4 and T1 of the Local Plan, in as much as these seek to resist development that fails to adequately assess and address transport impacts affecting the existing transport network, adversely impact upon public safety and ensure that developments are easy and safe to walk through. The proposal would also accord with the Transport for London Streetscape Guidance Fourth Edition -2019 Revision 1- the in as much as this requires that sightlines at crossings should not be obstructed by street furniture.
33. However I have found that the proposal would be harmful to amenity and therefore would not accord with Policies D1 and D4 of the Local Plan in so 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.

34. 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 in the wider area, thus reducing overall street clutter within the Borough. The proposal would, in addition to the kiosk in the immediate vicinity, remove two 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.
35. 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 significant harm caused by the kiosk to the character and appearance of the site and the wider street scene.
36. 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 significant harm caused by the advertisement to the amenity of the area.

Other Matters

37. 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.
38. 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

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

I Dyer

Inspector



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: 17 November 2020

Appeal Ref: APP/X5210/W/20/3253908

Telephone Kiosks outside 23-24 Tottenham Court Road, Fitzrovia, London W1T 1BJ

- 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 2019/4100/P, dated 9 August 2019, was refused by notice dated 6 April 2020.
 - The development proposed is replacement of existing two telephone kiosks with single new telephone kiosk.
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Appeal Ref: APP/X5210/H/20/3253493

Telephone Kiosks outside 23-24 Tottenham Court Road, Fitzrovia, London W1T 1BJ

- 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 2019/4894/A, dated 9 August 2019, was refused by notice dated 6 April 2020.
 - The advertisement proposed is illuminated digital advertisement display integrated within replacement telephone kiosk.
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Decisions

Appeal A: APP5210/W/20/3253908

1. The appeal is allowed and planning permission is granted for replacement of existing two telephone kiosks with single new telephone kiosk in accordance with the terms of the application, Ref 2019/4100/P, dated 9 August 2019, and the approved plans, subject to the conditions in the attached schedule.

Appeal B: APP/X5210/H/20/3253493

2. The appeal is allowed and express consent is granted for the display of the advertisement as applied for. The consent is for ten years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached schedule.

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 PY3340/032-rev B) which proposes the location of the kiosk to be on that of the existing kiosks. 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 consideration of the amended plan in my determination of this appeal.

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 two kiosks outside 23-24 Tottenham Court Road with a single kiosk and two others outside 245 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. The main issues in relation to Appeal A are, therefore, (i) whether the development would preserve or enhance the character or appearance of the site and wider street scene, and (ii) the effect of the siting of the proposed development on pedestrian movement and public safety.
8. In relation to Appeal B, the control of advertisements is exercisable only with respect to amenity and public safety. The main issues are (i) effect of the proposed advertisement on amenity, and (ii) the effect of the siting of the proposed advertisement on highway safety.

Reasons

9. The site is located on the footway outside 23-24 Tottenham Court Road, a building of modern 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.

10. There is a wide footway between the building frontage and the vehicular carriageway in the vicinity of the site. This hosts a number of items of street furniture of contemporary design, many of which incorporate advertisements, including digital advertisements. Street furniture in the immediate vicinity includes, in addition to the two existing kiosks on the appeal site, street lighting, incorporating a bus stop, seating and bicycle racks. Close nearby there are other bus-stops with shelters, telephone kiosks, advertisement screens and services cabinets. There is also a line of mature street trees, roughly along the middle of the footway. Advertising on the commercial units includes some internally illuminated signage but is generally low key and incorporates static images.
11. The nearby buildings are mainly of modern design. Whilst the footway around the site has a cluttered, congested feel, the distribution of footway space to carriageway, separation of the buildings and uncluttered eastern footway give the area an overall pleasant sense of spaciousness despite its busy urban character. The aforementioned attributes add distinctively to the character and appearance of the immediate vicinity of the site.
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 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.
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 the removal of two existing kiosks at the site and 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.
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. 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 buildings and shop fronts, would its simple, modern design incorporating elements referencing traditional kiosks, detract from the character and appearance of the site and the surrounding area.
18. 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.
19. However, 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. Whilst 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 feature within the street scene, it would be viewed in context of the series of such features along the street within which it would lie. Thus no significant harm would be caused to the character and appearance, and hence to the visual amenity, of the site and wider area.
20. 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 improvements¹. 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.
21. With regard to the current layout of the street and footway width the proposed kiosk would replace two existing kiosks with a single kiosk closer to the kerblines. Whilst there would be a nominal reduction in footway width overall, the residual width would still be in excess 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 replacement kiosk would occupy the area immediately adjacent to the kerb, in line with the street light/bus stop, and in practical terms this would restrict pedestrian flow less than the current layout.
22. Whilst the advertisement screen would be in the direct eyeline of pedestrians approaching there is little substantive evidence before me to demonstrate that it would provide such a distraction as to result in pedestrians entering the adjacent carriageway. Similarly there is little substantive evidence before me to demonstrate that similar advertisements in close proximity have resulted in an increase of accidents associated with driver distraction.

¹ Crossrail and High Speed 2 projects

23. There would be no permanent obstruction to prevent pedestrians crossing at this point. However, it is not an identified pedestrian crossing. There would be little advantage in using this location to cross the road, given the proximity of signal controlled crossing points to either side and I have little substantive evidence before me to demonstrate that the number of pedestrians crossing the road at this point is significant.
24. I note the guidance contained in the Digital Roadside Advertising and Proposed Best Practice (commissioned by TfL) -2013- which advises that digital advertising signs will not normally be permitted if they are proposed within 20m of a traffic signal. However, the proposal would be in an almost identical position to an existing pair of kiosks of similar scale. I have little substantive evidence before me to demonstrate that the proposal would have a significant effect on intervisibility between the drivers of vehicles approaching or exiting Stephen Street. I note that the Local Highway Authority have not raised concerns on this issue.
25. 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).
26. It is possible that the structure could attract ASB such as urinating against or within the structure and vandalism/graffiti. By replacing an existing kiosk there would be no overall increase in opportunities for such behaviour. The more open nature of the proposed kiosk compared to that of the existing one and the replacement of the old, uncared for kiosk and proposed improved maintenance regime would be likely to reduce the effects of ASB.
27. 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 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 be unlikely to be measurably altered.
28. It is proposed to reduce the number of kiosks at the site from two to one and remove two kiosks at another location. The reduction 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.
29. Drawing these points together, I conclude that in respect of Appeal A the development would not result in unacceptable harm to the character and appearance of the site and wider street scene. The proposal would therefore comply with Policy D1 of the Camden Local Plan -2017- (the Local Plan) in as much as this requires development to respect local context and character. For similar reasons I conclude that the proposal would also accord with the Fitzrovia Area Action Plan -2014- in as much as this seeks to reduce street clutter along Tottenham Court Road.
30. Furthermore, the proposal would not have a harmful effect on pedestrian movement and public safety and so it would comply with 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.

31. For the reasons outlined above, I conclude that in respect of Appeal B the proposed digital advertising panel would not be harmful to amenity and would accord with Policies D1 and D4 of the Local Plan in as much as these require development to respect local context and character and to avoid contributing to an unsightly proliferation of signage in the area and so are material in this case.
32. I also find that the proposed digital advertising panel would not result in harm to public safety, and would therefore be in accordance with Policies A1, D4 and T1 of the Local Plan, in as much as these seek to resist development that fails to adequately assess and address transport impacts affecting the existing transport network, adversely impact upon public safety and ensure that developments are easy and safe to walk through and are so material to the case. The proposal would also accord with the Transport for London Streetscape Guidance Fourth Edition -2019 Revision 1- the in as much as this requires that sightlines should not be obstructed by street furniture and is also material to the case.

Other Matters

33. 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.
34. 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.

Conditions – Appeal A

35. In addition to that setting out the statutory time limit, a condition requiring compliance with the approved plans is necessary for the avoidance of doubt and in the interest of certainty.
36. A condition requiring the removal of the kiosk, should it no longer serve any telecommunications purpose is necessary to prevent the accumulation of street clutter and protect the character and appearance of the area.

Conditions – Appeal B

37. The Council has suggested a number of conditions, five of which would replicate the five standard conditions set out in the Regulations and which would, therefore, be unnecessary.

38. A condition to control the intensity of illumination is necessary to preserve the character and appearance, and hence the amenity, of the area and to ensure that the advertisement complies with the requirements of the Transport for London Guidance for Digital Roadside Advertising.
39. In the interests of public safety, it is necessary to impose conditions relating to the movement, display and intervals for any advertisements and governing the images displayed so that they do not cause driver or pedestrian confusion, should they resemble a traffic sign.
40. The Council proposed a condition to regulate the way in which works are carried out to prevent obstruction or interference with the passage of pedestrians or other traffic. I am satisfied that regulatory powers are available to the Local Highway Authority to prevent this and so the condition suggested is unnecessary.

Conclusions – Appeals A & B

41. For the reasons given above I conclude that the appeals should succeed.

I Dyer

INSPECTOR

APPEAL A – SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan – 23 Tottenham Court Road; Site Plan – PY3340/032-revB; New World Payphones Specification Document Revision A.
3. The kiosk hereby permitted shall be removed from the building at such time as it is no longer required for telecommunications purposes and the land shall be restored to its condition before the development took place.

APPEAL B – SCHEDULE OF CONDITIONS

The following conditions are attached to this consent, in addition to the five standard conditions set out in the Regulations.

1. The advertisement display shall be statically illuminated and the intensity of the illumination of the digital sign shall not exceed 2500 candelas per square metre during the day and 300 candelas per square metre during the hours of darkness in line with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements' 2015. The levels of luminance on the digital sign should be controlled by light sensors to measure the ambient brightness and dimmers to control the lighting output to within these limits.
2. The digital sign shall not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements).
3. The minimum display time for each advertisement shall be 10 seconds.
4. The interval between advertisements shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction.
5. No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.



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



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/20/3254120

Telephone Kiosk outside 140-144 Camden High Street, London NW1 ONE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline 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 2019/4154/P, dated 9 August 2019, was refused by notice dated 7 April 2020.
 - The development proposed is replacement of existing telephone kiosk with new telephone kiosk.
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Appeal B Ref: APP/X5210/Z/20/3253563

Telephone Kiosk outside 140-144 Camden High Street, London NW1 ONE

- 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 2019/4929/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/20/3254120

1. The appeal is dismissed.

Appeal B Ref: APP/X5210/Z/20/3253563

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. At the time of my site visit traffic management measures were in place to provide additional space within the vehicular carriageway for pedestrian use. Two alternative site plans have been provided, PY3292/020 RevA and PY3292/020 RevB with the application. PY3292/020 RevB indicates a proposed new pavement line and parking bays, but this was not in place when I visited.

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 nearby kiosks. 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 Camden Town 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. In this case the main issue is the effect of the proposed advertisement on amenity.

Reasons

10. The site is located outside a bank on the footway of Camden High Street, close to its junction with Greenland Street. Camden High Street 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 Camden High Street 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. There is a footway of moderate width between the shop frontages and the vehicular carriageway in the vicinity of the site, with limited street furniture, of a contemporary design, including an existing telephone kiosk, a bollard, a litter bin, street lighting columns, utility cabinets and, across Greenland Street, traffic signals controlling a pedestrian crossing. 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. The aforementioned attributes add positively and distinctively to the character and appearance of the CA.
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 application was accompanied by two site plans which provide alternative locations for the replacement telephone kiosk. One layout, shown on plan PY3292/020 RevB, would require the widening of the footway to make the positioning of the kiosk safe, otherwise the kiosk would provide an obstruction in a live vehicular carriageway and this would be unacceptable by virtue of its likelihood to cause harm to the public when travelling. I have no certainty of the delivery of, nor indication of, the proposed timescale for, implementation of such works. Further, I have no certainty of the future layout of street furniture following any footway widening. I have therefore considered the proposal on the basis of the current kerblines layout, as shown on plan PY3292/020 RevA.
 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.
 18. An existing kiosk, of more angular, enclosed design and an uncared-for appearance, further along the footway and of a similar scale 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.

19. 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 facades 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 is part of the CA.
20. Nevertheless, 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.
21. 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.
22. 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.
23. 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.
24. 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.
25. 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 between Camden Town and Mornington Crescent Stations, where pedestrian volumes are forecast to increase following rail network improvements¹. 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.

¹ Crossrail and High Speed 2 projects

26. With regard to the current layout of the street and footway width the relocation of the kiosk would provide a marginal improvement in width compared to that in its existing position. However, it would 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'. Given the width of the footway and the separation of the proposed kiosk from other obstructions in the footway a kiosk in line with the existing utility boxes the kiosk would provide a limited betterment and the structure would, of itself, be unlikely to obstruct the footway where pedestrians would experience additional delay or encouragement to leave the footway and enter the carriageway.
27. However, the kiosk would be located in close proximity to two automatic telling machines (ATMs) within the frontage of the bank. The Metropolitan Police Crime Prevention Design Advisor has identified that, associated with their current low levels of usage, telephone kiosks within the Borough have become crime generators and focal points for anti-social behaviour (ASB). With regard to Camden High Street the potential use of the structure by street beggars has been highlighted.
28. Notwithstanding the orientation of the kiosk and its open nature, the kiosk would provide a degree of shelter from the elements and, given its proximity to the ATMs, be likely to provide a greater incentive to use the phone boxes for begging compared to the position of the existing kiosk. Beggars sitting within or adjacent to the proposed kiosk would be likely to obstruct the footway and increase concerns regarding personal safety and security for passers-by and those using the ATMs.
29. Further concerns have been raised regarding other ASB such as urinating against or within the structure and vandalism/graffiti. By removing the nearby 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 looking 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.
30. 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 be unlikely to be measurably altered. However, bringing these matters together I find that the proposed kiosk would, overall, have a harmful effect on pedestrian movement and public safety.
31. Other kiosks that it is proposed to remove are situated some distance from the appeal site and are not visible from it. 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. 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.
32. 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.
 33. 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.
 34. 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.
 35. 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.
 36. 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.
 37. 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 two 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.
 38. 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.

39. 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

40. 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.
41. 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

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

I Dyer

Inspector



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/20/3254037

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.
-

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.
-

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



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

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 improvements¹. 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

¹ 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