



Appeal Decisions

Site visit made on 10 September 2018

by **Nick Fagan BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18th September 2018

CASE DETAILS

All appeals

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeals are all made by Euro Payphone Ltd against the decisions of the Council of the London Borough of Camden.
 - In each case the development proposed is the installation of a telephone kiosk.
 - All the applications were dated 22 March 2017.
-

Appeal A Ref: APP/X5210/W/18/3195370

Pavement outside Fitzroy House, 355 Euston Road, London NW1 3AL

- The application Ref 2017/3544/P was refused by notice dated 7 August 2017.
-

Appeal B Ref: APP/X5210/W/18/3195368

Pavement outside 350 Euston Road, London NW1 3AX

- The application Ref 2017/3543/P was refused by notice dated 7 August 2017.
-

Appeal C Ref: APP/X5210/W/17/3180691

Pavement outside 286 Euston Road, London NW1 3DP

- The application Ref 2017/2494/P was refused by notice dated 21 June 2017.
-

Appeal D Ref: APP/X5210/W/18/3195366

Pavement outside Euston Tower on west side of Hampstead Road, London NW1 3DP

- The application Ref 2017/3542/P was refused by notice dated 7 August 2017.
-

Appeal E Ref: APP/X5210/W/18/3195365

Pavement outside Euston Tower on west side of Hampstead Road, London NW1 3DP

- The application Ref 2017/3527/P was refused by notice dated 7 August 2017.
-

Appeal F Ref: APP/X5210/W/18/3195361

Pavement outside 250 Euston Road, London NW1 2PG

- The application Ref 2017/3505/P was refused by notice dated 7 August 2017.
-

Appeal G Ref: APP/X5210/W/18/3195371

Pavement outside University College Hospital on Tottenham Court Road

opposite Warren Street Underground Station, London NW1 2BU

- The application Ref 2017/3548/P was refused by notice dated 7 August 2017.
-

Appeal H Ref: APP/X5210/W/18/3195362

Pavement outside 210 Euston Road, London NW1 2DA

- The application Ref 2017/3508/P was refused by notice dated 7 August 2017.
-

Appeal I Ref: APP/X5210/W/18/3195903

Pavement outside 215 Euston Road, London NW1 2BF

- The application Ref 2017/3450/P was refused by notice dated 25 September 2017.
-

Appeal J Ref: APP/X5210/W/17/3180688

Pavement outside 29-31 Euston Road, London NW1 2SD

- The application Ref 2017/2493/P was refused by notice dated 21 June 2017.
-

Appeal K Ref: APP/X5210/W/18/3195000

Pavement outside St Pancras International Station, 3-13 Pancras Road, London NW1 2QB

- The application Ref 2017/3444/P was refused by notice dated 3 August 2017.
-

Appeal L Ref: APP/X5210/W/18/3195002

Pavement outside King's Cross St Pancras Underground Station, 17-21 Euston Road, London N1 9AL

- The application Ref 2017/3446/P was refused by notice dated 3 August 2017.
-

Appeal M Ref: APP/X5210/W/18/3195004

Pavement outside King's Cross Railway Station, opposite 2 York Way, London N1 9AP

- The application Ref 2017/3448/P was refused by notice dated 3 August 2017.
-

Decisions

1. All the appeals are dismissed.

Procedural Matters

2. The site addresses have either been taken from the application forms or from the Local Planning Authority's (LPA) decision notices, whichever most accurately describes the location of the proposed kiosk.
3. The LPA argues in respect of some of these cases that there are other telephone kiosks (public pay phones) nearby and that there is therefore no need for new ones. This is only relevant in terms of assessing their benefits because the General Permitted Development Order (GPDO) confers on the appellant, an electronic communications code operator, a general planning permission for new kiosks. The only matters for consideration are their siting and appearance. The appellant does not have to prove a need for new telephone kiosks.
4. The LPA refers to development plan policies in its refusal reasons. But such prior approval applications do not require regard to be had to the development plan because section 38(6) of the Planning and Compulsory Purchase Act 2004

does not apply to them. Nonetheless, insofar as the identified policies relate to siting and appearance I have had regard to them as material considerations.

5. The revised National Planning Policy Framework (NPPF) was published on 24 July 2018, after the Council determined the applications. Insofar as the NPPF is relevant to my determination of the appeals, its policies in relation to telecommunications have not been significantly altered such as to prejudice the case of either party by taking it into account.

Main Issues

6. The main issues in all these cases are the effects of the siting and appearance of the proposed kiosks on:
 - a) the street scene including in some of the proposals in terms of whether they would preserve or enhance the character or appearance of the Conservation Areas (CA) within which they are located or the significance of any Listed Buildings (LB) within whose settings they may be located; and
 - b) the pedestrian environment.

Reasons

Siting and Appearance of the Kiosks

7. The Euston Road (part of the A501) is essentially central London's northern inner ring road and as such is normally very busy, especially during the working week. The pavements on its north and south sides vary in width along its length but are generally well used by pedestrians accessing the commercial premises which front onto them and the road's bus stops, mainline railway and underground (tube) stations. The even number locations are on the north side of Euston Road and the odd numbers on the south side.
8. The proposed kiosk sites are spread along its length of just over a mile, Appeal A starting at its western end just to the east of Great Portland Street Tube station ending at Appeal M at its eastern extremity at the south eastern corner of King's Cross station. I saw on my visit that the greatest pedestrian flows occur around King's Cross and St Pancras stations and next to Warren Street and Euston Square Tube stations.
9. The design and specification of the proposed kiosks would be identical in each of the cases. The kiosks would have a footprint of 1.32m x 1.11m and be 2.45m high. They would have a powder coated metal frame with reinforced laminated glass panels and roof of a dark coloured finish which would include a solar panel on top.
10. The glass seems to be tinted but would appear to allow views through the kiosks. Two sides and a small return on the third side would be enclosed by the glass panels with two sides largely open, which would allow their use by a person in a wheelchair. I am confident that the revised drawing 001/01RevA, which shows the height of the payphone to be no higher than 1.4m above the ground would be useable for a customer in a wheelchair.¹ Consequently I find, in those cases where the Council has included a fourth refusal reason relating to a lack of access for wheelchair users, that such a reason is unjustified.

¹ Appendix G in each of the appellant's Grounds of Appeal

-
11. The LPA argues that it does not know the orientation of the kiosk in each location. However, it is clear to me from the site location montages in each of the appellant's Grounds of Appeal documents that the deeper part of the kiosk would be at 90° to the road and that its open, wheelchair accessible side would face away from the road in each instance.
 12. Nonetheless I note that the floor area of the appellant's kiosk would be considerably greater than BT's K2, K6 or modern kiosks and due to this and their height they would appear as substantial structures on the pavement. I also noticed that some of the existing kiosks of similar size in the area exhibited evidence of being used for sleeping in by homeless people. The phones in some of the kiosks also appeared not be functioning. These circumstances suggest that some of the existing kiosks are not being used for the purpose for which they were intended, which puts into question their primary purpose.

Appeal A – Outside Fitzroy House, 355 Euston Road, London NW1 3AL

Street Scene

13. The kiosk would be sited approximately equidistant between two lampposts and about 70m east of an existing Infocus Media telephone kiosk in a similar position on the pavement. There was a folded up mattress and a number of opened up cardboard boxes in that kiosk and the phone was inoperable.
14. The kiosk would be prominent on this section of the pavement because it is narrower than the majority of Euston Road's pavements and is free of other street furniture. It would add unnecessary street clutter in this location because of the nearby presence of the Infocus kiosk and a BT kiosk in Fitzroy Street.

Pedestrian Environment

15. The pavement is relatively narrow here and the kiosk would impinge into the main pedestrian flow because it would extend for its full depth of 1.32m beyond the line of the lampposts back towards the entrance to No 355. I also observed that people, including smokers from the office at No 355, tend to congregate at this point near to where the pavement narrows even more to the west. I consider the kiosk would hamper the free movement of pedestrians at this location, where there appears to be moderate to high pedestrian flows.

Appeal B - Pavement outside 350 Euston Road, London NW1 3AX

Street Scene

16. The kiosk would be sited in front of the glazed canopy of the adjacent office building, the entrance to the adjacent Wasabi restaurant and a line of street trees. It would be about 20m from a road sign to the east and there is a lamppost about 40m to the west. The street scene here is also characterised by the vertical and 45° columns of the office building. The kiosk would introduce another element of street furniture which in my view would amount to unnecessary clutter given the nearby alternative pay phones on the other side of the road within a short walking distance.

Pedestrian Environment

17. The pavement is wider here than in the Appeal A location on the south side of the road opposite. But the kiosk would be sited in the area of main pedestrian flow because of the lines of the building's columns and street trees and so it would restrict free pedestrian movement in an area of footway with moderate to high pedestrian flows.

Appeal C - Pavement outside 286 Euston Road, London NW1 3DP

Street Scene

18. The kiosk would be sited opposite the main entrance to the Euston Tower offices in front and to the side of a row of well used cycle stands about 20m west of a lamppost. There is also a substantial planter and street trees to the west. The kiosk would comprise additional clutter to the street scene in this location with an unfortunate apparently random juxtaposition with the cycle stands.

Pedestrian Environment

19. The pavement is wide here including the area between the bike stands and the Euston Tower. But the location of the kiosk between the former and the curb would block a significant desire line for pedestrians, who I noticed were mainly walking between the planter and bike racks and the curb. It would therefore significantly curtail the free movement of pedestrians in this area of high footfall near to the junction of Hampstead Road and opposite the entrance to Warren Street Tube station.

Appeal D - Pavement outside Euston Tower on west side of Hampstead Road, London NW1 3DP

Street Scene

20. The kiosk would be sited adjacent to a lamppost in an area where the pavement is wide. Just to the north west is a large planter with seats around the edge. There is a bench and street tree in the middle of the pavement about 10m away to the south west. The kiosk would impinge here into a clear area uncluttered by any street furniture, which has been sensitively designed. As such it would spoil this uncluttered design by introducing a prominent feature that would look out of place.

Pedestrian Environment

21. A kiosk here would not significantly interfere with pedestrian flows. But the site is close to the pedestrian crossing on Hampstead Road and I noticed that people also cross the road here. The depth and height of the kiosk would interfere with pedestrians' visibility of traffic travelling north at this point, which in my view would present a needless hazard.

Appeal E - Pavement outside Euston Tower on west side of Hampstead Road, London NW1 3DP

Street Scene

22. This site is only about 50m north of the above site in Appeal D, also next to a lamppost. There is a tree and a bus shelter about 20m and 50m to the north

respectively. There is another planter with seating round the edge set back about 8m from the curb. As above, this is a well-designed open area of footway in an area with high pedestrian flows within which the substantial sized kiosk would intrude as unwelcome clutter in the street scene at odds with the sensitive design of this part of the public realm.

Pedestrian Environment

23. People also cross the road here, notwithstanding the presence of the crossing to the south and again, as above, the size of the kiosk would present a needless obstruction of pedestrians' visibility of traffic travelling north on Hampstead Road.

Appeal F - Pavement outside 250 Euston Road, London NW1 2PG

Street Scene

24. The kiosk would be roughly equidistant between a Plane tree and a lamppost near to the dwarf brick wall in front of the office building on this north east corner of Euston Road and Hampstead Road. It would be a relatively large structure in a location just where the pavement narrows considerably and as such would give this location an overly cluttered appearance.

Pedestrian Environment

25. The kiosk would extend further back into the pavement where it starts to narrow considerably, which would significantly hamper pedestrian flows on a stretch of pavement that is subject to heavy footfall levels.

Appeal G - Pavement outside University College Hospital on Tottenham Court Road opposite Warren Street Underground Station, London NW1 2BU

Street Scene

26. The kiosk would be sited opposite the entrance to the tube station on the other side of Tottenham Court Road on a fairly wide pavement free of any street furniture. As such the kiosk would present a significant intrusion of a bulky structure into the open street scene and would give it a cluttered appearance. As documented by the LPA there are nine existing public telephones located between 32m and 136m from this location, so the benefits of providing this kiosk does not outweigh its harm to the street scene. The proximity of these public phones also applies to the kiosks in Appeals D, E and F.

Pedestrian Environment

27. There would remain a significant area of open footway behind this kiosk. But at present this area, which experiences high pedestrian flows, is entirely free of obstruction which means that walkers would have to step around the kiosk.

Appeal H - Pavement outside 210 Euston Road, London NW1 2DA

Street Scene and Heritage Assets

28. The kiosk would be sited between two trees and between a lamppost and a road sign and would also be about 10m from a row of bike stands, which themselves abut a street food kiosk (King of Falafel). Combined with the

relatively narrow footway at this location and high pedestrian flows the kiosk would make this area of the pavement very cluttered.

29. The LPA argues that a kiosk here would seriously affect the setting of the Bloomsbury CA. Although it would add to the street clutter here it is outside the CA and would not significantly affect its overall character.

Pedestrian Environment

30. Pedestrian flows are north of the line of street trees so the kiosk would not hinder pedestrian flow or desire lines in this location.

Appeal I - Pavement outside 215 Euston Road, London NW1 2BF

Street Scene and Heritage Assets

31. The appellant's location map for this kiosk is incorrect. The kiosk site is on the south side of Euston Road outside the Wellcome Institute near a lamppost and about 50m from a bus shelter to the west and a row of bike stands to the east. The street however is free of clutter in this location and the kiosk would be a bulky structure extending back into the footway on a stretch of pavement which is relatively narrow for Euston Road and its heavy pedestrian flows.
32. The site lies within the Bloomsbury CA. There are eight existing telephone kiosks located between 86m and 181m of the site, an easy walking distance. The benefit of providing an additional phone kiosk, which would create additional street clutter, is not considered to outweigh the harm to the street scene within the CA in this location.

Pedestrian Environment

33. The pavement is unobstructed here and so the kiosk would hamper pedestrian movement, albeit not significantly because it would be in line with the nearby lamppost and cycle stands.

Appeal J - Pavement outside 29-31 Euston Road, London NW1 2SD

Street Scene and Heritage Assets

34. This is the first of four sites in the King's Cross St Pancras area. The site abuts a mature Plane tree and litter bin near to a pedestrian crossing to the west and the entrance to the Tube station to the east adjacent to the entrance to Burger King. The remaining area of clear footway would be less than 4m in width. It is directly opposite the Grade I listed St Pancras Station and lies within the King's Cross St Pancras CA.
35. The kiosk would undoubtedly cumulatively add to the amount of street clutter on this narrow pavement in the CA, which the CA Statement seeks to avoid. It would obscure immediate views of St Pancras Station from this side of the road in this location, which undoubtedly lies within that LB's setting. The LB's setting is an important part of its significance despite the surrounding commercial uses. As such the proposal would cumulatively add to the 'less than substantial harm' already occurring to the LB. The benefits of providing this additional pay phone opposite King's Cross and St Pancras stations, which already contain an adequate number of pay phones, does not outweigh the harm to the CA or LB.

Pedestrian Environment

36. The kiosk is very near a pedestrian crossing and because of the high footfall in this location I observed that many pedestrians cross the road at this point also, so it would hamper the free movement of pedestrian traffic. Although the kiosk would be inset from the curb by the standard 0.6m I consider that it would, together with the adjacent Plane tree, serve to hinder visibility of the traffic signals by vehicles travelling west, which itself could be hazardous to pedestrians.

Appeal K - Pavement outside St Pancras International Station, 3-13 Pancras Road, London NW1 2QB

Street Scene and Heritage Assets

37. This kiosk would be sited on the fairly narrow pavement at the eastern side of St Pancras station between two lampposts and about 50m from a bus shelter to the north and signalled pedestrian crossing to the south at the junction of Euston Road. It would add to the street clutter in this part of the CA and partly obstruct open views of the lower part of the Grade I listed station building from the other side of Pancras Road. As per Appeal J, the benefit of providing this additional pay phone opposite King's Cross and next to St Pancras stations, which already contain an adequate number of pay phones, does not outweigh the harm to the CA or LB.

Pedestrian Environment

38. The site is diagonally opposite a traffic island and I observed that many pedestrians cross the road at or near this location. The retained clear area of footway would only be about 4m wide and given its location next to the mainline stations this pavement is subject to constant high levels of pedestrian flow. I consider the kiosk in this location would hamper such flows and pedestrian desire lines.

Appeal L - Pavement outside King's Cross St Pancras Underground Station, 17-21 Euston Road, London N1 9AL

Street Scene and Heritage Assets

39. The kiosk would be sited just inset from the curb on Euston Road next to the entrance to the Tube near a lamppost and kiosk. As such it would add to the street clutter on the open area in front of King's Cross station, albeit that it would not significantly affect views of the Grade I LB or harm the character or appearance of the CA because of these other structures around it.

Pedestrian Environment

40. However, it would be sited immediately next to a bus lane in front of the station where I saw buses dropping off passengers including those with disabilities. The kiosk would undoubtedly hamper that operation.

Appeal M - Pavement outside King's Cross Railway Station, opposite 2 York Way, London N1 9AP

Street Scene and Heritage Assets

-
41. The kiosk would be sited near the south eastern corner of King's Cross station building opposite McDonald's on the other side of York Way near to bollards, a lamppost and a low level BT cabinet next to where the pavement narrows considerably on this side of the road. As such it would be a bulky and prominent structure that would give this area a cluttered appearance.
 42. Given its location so close to the corner of the Grade I LB it would also significantly impinge into the important views of the station from the south east and would consequently harm its setting. The LB's setting is an important element of its significance and such clutter so close to its front façade should be avoided if it all possible. It is clearly an important if not the most important building in the CA and adverse impact on its setting would also be harmful, at least cumulatively, to the character and appearance of the King's Cross CA. The benefit of providing such an additional pay phone where there are already plenty inside the station would not outweigh this 'less than substantial' harm to these designated heritage assets.

Pedestrian Environment

43. The kiosk on this site would substantially narrow the pavement at this very busy corner location of King's Cross station in an area where a number of bollards already restrict pedestrian flows. It is also close to a very busy pedestrian crossing as a result of which people cross the road directly at this location. The kiosk would substantially obstruct pedestrian flows at this important entrance to the station – indeed in the very area which should be kept clear of such obstructions.

Conclusions

44. The proposed kiosks would comply with the required minimum clear footway widths next to them as set out in the Transport for London Streetscape Guidance and Pedestrian Comfort Guidance, and with Camden's Streetscape Design Manual, Design Planning Guidance (CPG1) and Transport Planning Guidance (CPG7).
45. However, paragraph 8.10 of CPG7 states that works affecting highways should avoid unnecessary street clutter; design of footways should not include projections into the footway, unnecessary and cluttered street furniture or other obstructions; and any minimum standards for footway widths should not be used to justify the provision of unnecessary street clutter or reduction in footway width. Paragraph 8.6 seeks to ensure, amongst other things, that street clutter is avoided and the risk of pedestrian routes being obstructed is minimised. For the reasons set out above I conclude that all the proposed kiosks would add to street clutter and most of them would reduce footway widths hampering pedestrian movement.
46. The GPDO establishes the principle of the need for such telephone kiosks but the benefits of providing them are inevitably related to whether there are other existing pay phones in the vicinity. If there are no existing pay phones then the benefits of new pay phones must necessarily be enhanced, even despite the widespread use of mobile phones. In these appeals, as set out above, I have already highlighted the availability of other such kiosks in the locality. The sites are also adjacent or within close walking distance of three mainline railway stations (Euston, St Pancras and King's Cross) all of which contain

within them a number of pay phones. The benefit of providing additional kiosks in such circumstance is therefore limited.

47. Policy T1 of the Camden Local Plan 2017 (CLP) states that sustainable transport including walking will be the primary means of travel and will ensure that developments improve the pedestrian environment. CLP Policy C5 states that the design of streets needs to be accessible, safe and uncluttered with careful consideration given to the design and location of street furniture. Paragraph 9.27 of CPG1 says that the placement of new phone kiosks needs to ensure they have limited impact on the sightlines of the footway. For the reasons explained above, the proposed kiosks would not comply with these Policies and this guidance.
48. CLP Policy D1 seeks high quality design that integrates well with surrounding streets, improves movement within the wider area, minimises crime and antisocial behaviour and comprises high quality materials and details that complement local character. For the site specific reasons detailed above none of the kiosks would improve movement on their respective pavements and they would not integrate well in their surroundings.
49. The design of the kiosk appears overly large and is of a standard durable construction which whilst inoffensive in itself would appear as just another bulky piece of street furniture adding to existing clutter. The open-sided nature of the kiosks ensures visibility of users deterring the likelihood of antisocial behaviour. But their size and design enables them to be used for sleeping in, appearing to encourage rough sleeping in the area. For these reasons I conclude that none of the proposals would comply with Policy D1.
50. For the reasons given above I conclude that all the appeals should be dismissed.

Nick Fagan

INSPECTOR