

Town and Country Planning Act 1990

**Town and Country Planning
(Control of Advertisements) (England)
Regulations 2007**

Grounds of Appeal

Appeal by JCDecaux UK Limited (JCD) against the refusal of planning permission and advertisement consent for the Updating of an Electronic Advertised Telephone Box

Appeal Site Address kiosk on **Shaftesbury Avenue and Earlham Street London WC2H 8JA**
(2023/3147/P 11th April 2024 ~ 2023/0594/A 11th April 2024)

Introduction and Background

This appeal relates to a proposal to replace and update an existing telephone call box. The installation, alteration or replacement of a communication apparatus requires Planning Permission (PP) and Advertisement Consent (AC) is required for the display of an advertisement on the structure of the apparatus. The applications were submitted under the provisions of the 1990 Act and subordinate Regulations governing the display of advertisements and installation of communication apparatus. The appeal grounds as set out below relate to both the advertisement and planning aspects of the appeals and should be read in conjunction with the application documentation.

Nature of Proposal

The application site is occupied by a three sided semi enclosed telephone call box, which was installed more than ten years ago. The proposal seeks consent to update the apparatus and advertisement display affixed to the south east facing façade of the box. The proposal is part of a wider scheme to rationalise and update the Appellant's estate with modern and reliable infrastructure. The proposed advertisement would be the same size but be displayed using an LCD screen rather than a printed version. The application documents include before and after images of the site and demonstrate that, to the casual observer, the differences would be negligible from a visual perspective, however the changes will be significant for the Appellant's network. The upgrade in the quality and reliability of the communication network is essential to provide a viable service that is free for public use¹. The upgrade in the display technology is funded by the commercial advertising display. The existing display method is that of a printed image on paper or vinyl material displayed between a double-glazed case affixed to the call box. The static images are manually changed every two weeks, with the advertising copy being recycled. The change to a digital form of display will enable images to be changed remotely and eliminate the waste and energy costs in the regular visits to the site and the replacement and recycling of the spent material.

It is accepted that development of any type must be carefully managed to avoid harm to visual amenity or endangerment to the public. The images shown on the LCD screen will therefore continue to be static only, with the displays including free local community and safety messaging as well as paid for commercial display. The lighting level of the screen is also an important consideration as to how the display is viewed by the public within the context of the street. Digital technology offers a greater degree of functionality for the operator to exercise control over how images are displayed and to ensure output levels are carefully controlled in compliance with the recommendations of the Institute of Lighting Professionals (ILP). The interest of the advertising is not served where a display is so bright as to appear overbearing. The

¹ Limited to land lines, emergency services and charities

purpose of advertising is to be seen, not to overwhelm. The nighttime limit recommended by the ILP is 300m² and this is considered more than sufficient to achieve the object of visibility during the hours of darkness. Furthermore, the screen is switched off between the hours of 12 midnight and 6:00 a.m.

Recent History

In 2022 AC and PP were allowed at the appeal site for the replacement of the existing call box with a Hub unit structure featuring a communication apparatus on one side of the unit and a single LCD display on the reverse of the structure, see Appendix A to the application documents. The current proposal seeks consent to update the existing call box structure with a modern version that is ostensibly the same in design and appearance, with the installation of the LCD display panel as permitted in 2022². The upgrade of the call box will improve the furniture and provide a secure and reliable communication service that is free to the public. The change in the advertising display to a modern form of technology will secure the viability of the network without harm to the character or appearance of the locality.

Application Detail and LPA Determinations

Applications were submitted to the Council through the Portal for both planning permission and advertisement consent on the 2nd August 2023. The proposals were subject to consultation and ultimately refused by notice dated the 11th April 2024. The reasons for refusal of planning permission and advertising consent are as follows.

ADVERTISEMENT CONSENT

1. The proposed advertisement, by virtue of its location, scale, prominence, method of illumination, would add visual clutter, detrimental to the amenity of the streetscene and the setting of adjacent Camden Town Conservation Area, contrary to policies D1 (Design) and D4 (Advertisements) of the Camden Local Plan 2017

PLANNING PERMISSION

1. The proposed telephone kiosk, by reason of its location, size, detailed design, and proximity to other kiosks, would add to visual clutter and detract from the character and appearance of the street scene, and the setting of Seven Dials (Covent Garden) Conservation Areas, contrary to Policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

² JCD 1

2. The proposed telephone kiosk, by virtue of its location, size and detailed design adding to unnecessary street clutter, would reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm, cause harm to highway safety and hinder pedestrian movement and have a detrimental impact on the promotion of walking as an alternative to motorised transport, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.
3. The proposed telephone kiosk, by reason of its scale, location and design would add unnecessary street clutter which would increase opportunities for crime in an area which already experiences issues with crime, therefore the proposal would be contrary to policy C5 (Safety and security) of the London Borough of Camden Local Plan 2017.
4. In absence of a legal agreement to secure the removal of the existing kiosks and a maintenance plan or the proposed kiosk, the proposal would be detrimental to the quality of the public realm, and detract from the character and appearance of the streetscene, contrary to policies D1 (Design), G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.

Comments on LPA's Decisions

The claim that the proposal will lead to clutter, which is referred to in both decisions, is unfounded and illogical. The proposal relates to an existing item of furniture and one that has been a feature of the street for more than ten years. The use of the term clutter implies an untidy and poorly positioned excess of something. It is clearly illogical to apply this term unless both the proposed and existing structures were to be retained, which they are not. This proposal does not seek to increase the amount of furniture rather to update existing equipment with a more contemporary version of the call box and using modern materials and technologies. The assessment of the earlier proposal to replace the unit entirely with a modern Hub unit and LCD screen was found to be acceptable in planning terms without any suggestion that this type of technological upgrade would result in harm to visual amenity of public safety. It is unreasonable therefore, and flies in the face of the 2022 decision, that the Council persists in the unsupported claim that such harm would arise should this proposal be granted.

As to safety impact, implied in the second reason for refusing planning permission but not to the refusal of advertising consent, this factor was also cited in the reason for refusing the previous proposal and therefore duly considered at the preceding appeal. The Inspector found that the

pavement was more than sufficient to enable pedestrians to freely move along it without obstruction or endangerment³. The replacement structure will sit within an area usually considered an appropriate zone for furniture as outlined in TfL guidance and other guides on the design and layout of public spaces. As stated in the earlier appeal, the unit “...stands alongside a wide pavement where the two roads meeting and would be alongside the end of Earlam Street which is largely pedestrianised... the area adjacent to the site provides a wide, safe, and unrestricted area for pedestrian movement...”.

It is unclear from the Council’s decision notice whether the harm to highway safety mentioned in the reasons applied solely to pedestrians or drivers also. The appellants does not accept this view or how the replacement of the kiosk structure on a like for like basis could in any way effect drivers on the adjoining highway. The Inspector concluded on the safety issues that “...the proposal would not harm the safe and efficient operation of the highway network or public safety”. The position for the advertisement display and the type of presentation would be the same as that considered at appeal and there is nothing new that would indicate that the Inspectors conclusions in the 2022 appeal remain valid and continue to apply to the current proposal.

As stated in the application covering letter, the use of the telephony equipment will follow the guidance in the management plan, which was created in consultation with SGT David Lucy and PC Steve Downing of the Met Police Design Out Crime Unit. The need for a management plan over the use of all the Appellant’s apparatus is designed to ensure the free provision does not exacerbate issues of anti-social behaviour in the Borough and across London. The Met Officers were instrumental in drafting the Management Plan⁴ on the use of the units and reporting process for abuse. There is no indication that the Council consulted the Met Police DOC unit on this current appeal proposal. As to matters of the maintenance of the apparatus, the schedules and commitments to maintaining and cleaner the equipment is included in the management plan.

The Council suggestion that a legal agreement is required to ensure the removal of the existing call box is considered wholly unnecessary as the implementation of any PP and AC could not be implemented without first removing the existing telephone box.

Conclusions and Grounds of Appeal

The LPA’s reasons for refusing planning permission and advertisement consent asserts that the proposal would unacceptably harm the amenity of the locality and endanger the public. The

³ Paras 35-37

⁴ Appendix B

Appellant respectfully disagrees with this conclusion as expressed in the Council's decision notices and would reaffirm that the proposal would not harm visual amenity nor offend policy aims.

1. Contemporary furniture can be successfully introduced within the public realm without undermining or detracting from the visual quality or integrity of an area. The existing call box is already an advertised item of furniture and established part of the street. The updating of the call box to the newest version of this accessible structure is a positive enhancement in function without any discernible impact on appearance. The proposed advertisement is designed as a seamless addition to call box and to complement the modern interpretation of a public service using modern display technology.
2. Shaftesbury Avenue and the wider Covent Garden is a vibrant and active area with busy streets characterised by tall buildings on either side of what is a well-lit thoroughfare. The advertisement display affixed to the call box would reflect a distinctive modern element within the area, but this would not be seen as an inappropriate or unexpected feature.
3. The call box is an pre-existing feature of the road and cannot be considered to be incongruous within its context or too dominant a feature of the street given the scale of the unit and its limited sphere of influence. The immediate site context and the nature of the settings means that the character and appearance of the area would remain unaffected by this proposal.

Accordingly, the Inspector is respectfully requested to uphold this appeal and grant PP and AC to the development applied for.

Yours faithfully,



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