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The Planning Inspectorate
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Dear Fiona Dunn,
Appeals by Derek Parkin, Infocus Public Networks Ltd against refusal or Prior Approval for Installation of public payphone.
Site: Pavement outside 334-336 Gray's Inn Road, LONDON, WC1X 8EE

The Council's case is largely set out in the officer's delegated report dated 28th May 2015 which details the site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire. This largely represents the Council's statement of case.

In addition to the information sent with the questionnaire, I would be pleased if the inspector could take into account the following information and comments regarding the status of the council's policies and the grounds of appeal before deciding the appeal.

1.0 Summary

- 1.1 The site is set back rather close to the kerb Gray's Inn Road. There is a cycle rack adjacent to the south-east elevation of the telecommunication booth.
- 1.2 The site is in Kings Cross St Pancras Conservation area, about 4-5m away from the corner of Britannia Street with Gray's Inn Road to the north-west of the site.

1.3 Prior approval for the installation on the pavement of public payphone kiosks from the appellant was refused on 22nd April 2009 contrary to what the appellant is stating in paragraph 2: *The Appellants have obtained prior approval enabling them to place and maintain electronic communications apparatus on the Highway, namely a public payphone on the site at 334 Grays Inn Road.*

However, the telecommunication kiosk duly erected.

1.4 Advert consent for the display of 1 x 6 sheet advertisement on a public payphone was refused on 8th May 2015. There were 2 grounds for refusal:

- 1) *The proposed advertisement by reason of its location, size and appearance would add visual clutter to the streetscene to the detriment of the character and appearance of the conservation area.*
- 2) *The proposed advertisement by virtue of its opacity and location would likely impair road users visibility and safety at the junction with Britannia Street.*

2.0 Development Plan Policies

2.1 The Development Plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004 will be the Camden Core Strategy and Camden Development Policies of the Local Development Framework.

Core Strategies:

- CS5 – Managing the impact of growth and development
- CS11 – Promoting sustainable and efficient travel
- CS14 – Promoting high quality places and conserving our heritage
- CS17 – Making Camden a safer place

Development Policies:

- DP16 – The transport implications of development
- DP21 – Development connecting to the highway network
- DP24 – Securing high quality design
- DP25 – Conserving Camden's Heritage
- DP26 – Managing the impact of development on occupiers and neighbours

These policies were adopted following a full consultation exercise in November 2010. The policies are up to date and should be given substantial weight in accordance with para. 214-216 of the NPPF.

Camden Supplementary Guidance

Camden Supplementary Guidance

CPG 1 (Design) chapter 8 (Advertisements, Signs and Hoardings). This policy document has been updated and adopted in August 2015 following a full consultation exercise.

Planning Enforcement Initiative to remove unsightly advertisement hoardings in the Borough.

3.0 Background Information

3.1 The Council has successfully secured the removal of adverts similar to the ones that have been refused through enforcement initiative to remove adverts from phone boxes. Some of the sites include:

- 72 Russell Square – 1 advert removed (reference: EN11/0597)
- 106 Southampton Row – 1 advert removed (reference: EN10/0725)
- Guilford Street – 2 adverts removed (reference: EN14/1035 & EN14/1128)
- Cromer Street – 2 adverts removed (reference: EN14/1029)
- Brunswick Square - 1 advert removed (reference: EN11/0660)
- Camden High Street - 1 advert removed (reference: EN10/0045)
- Outside Warren Street Tube – 1 advert removed. (reference: EN14/0538)

3.2 The above examples demonstrate that Camden is and has proactively been tackling the lawful and/or unlawful display of signage on public payphones which are considered to be visual clutter and do not respect the general characteristic and appearance of the locality and immediate surroundings.

- 3.3 The removal of such adverts also addresses the hindrance of the freedom of movement created by the signage which, by their very nature and location, obscure the negotiating field of vision for all pedestrians, subsequently becoming a hazard to pedestrians, wheelchair user and vehicular traffic.
- 3.4 The Council takes unsightly advertising seriously. It also has a hoarding initiative, referred to above, tackling unsightly advertisements and this is targeted on conservation areas and main thoroughfares.

4.0 Comments on the Appellant's Grounds of Appeal

- 4.1 The Council is mindful that the 2007 Regulations state, and the Government's recent National Planning Policy Framework also advises, that adverts should be controlled only in the interests of amenity and public safety.
- 4.2 The proposal has therefore been assessed and refused on the grounds amenity and public safety, the latter raising concerns on the impact the location of the proposal will have on the safety (anti-social behaviour and criminal activity) on pedestrians.
- 4.3 In paragraph 6, the Appellant states that *"Rather than becoming embroiled in a legal dispute with the Council, who immediately threatened a criminal prosecution, the Appellants decided to cease advertising on the payphone for the time being and decided to submit an application to the local planning authority for express consent in order to resume advertising on one glazed surface of the payphone."*
The council has not made any threats of criminal prosecution but has requested for the unlawful advertisement to be taken down to which the Appellant has duly obliged.
- 4.4 In paragraph 14, the Appellant states that *"there is a continuing need for public payphones. In particular to provide facilities for students, ethnic minorities and those who are socially challenged. Indeed there is an even greater need for the provision of such payphone services to persons with disabilities, especially those who are confined to wheelchairs. The Appellants' payphones are of sufficient size to provide easy access and egress for such persons."*
There is no supporting evidence to demonstrate that the provision of disabled access payphone is required in this particular area.
- 4.5 In paragraph 20, the Appellant states that *"Advertisements have appeared on the payphone continuously since its installation in 2009 without any comments from Camden as LPA and as far as the Appellants*

are aware without complaint from any member of the public.”

It must be noted that most members of the public are unaware of Planning and/or Advertisement regulations and would thus be oblivious to the fact that the host telephone kiosk sits within a conservation area and as such that advert consent is required.

The Council does not have the financial resources nor the man power to spot and report all planning and advertisement contravention.

- 4.6 In paragraph 25, the Appellant states that *“if the concerns expressed by the Council in respect of road safety and security had substance, then bearing in mind that advertisements had appeared continuously on those two payphones for a number of years, such concerns would have materialized and thus real evidence both from the Council and the Metropolitan Police...”*

The Metropolitan Police would not comment on the safety issue of pedestrian in relation to traffic. This matter would generally, and was, assessed by our Transport team who did comment on the location of the cycle rack close to the existing telephone kiosk as well as the close proximity the telephone booth in situ to the kerb.

- 4.7 In paragraph 26i, the Appellant states that *“That in matters relating to the Appellants' payphones and advertisements, the LPA has failed manifestly to be consistent in its implementation of its planning policies, in particular by the lack of enforcement action against both of the Appellants' competitors, namely Arqiva (formerly Spectrum Interactive) and BT Such a lack of consistency, in the view of the Appellants, demonstrates clear discrimination in favour of the Appellants' Competitors,”*.

The following is the list of various unlawfully displayed advertisement which have been the subject of enforcement cases requesting their removal from BT phone boxes on Gray's Inn Road:

- EN14/1139 - Outside of 340 Gray's Inn Road;
- EN15/0032 - Public Telephone and WiFi kiosk Outside 366 Gray's Inn Road;
- EN15/0033 - Outside of 297-305 Gray's Inn Road;
- EN15/0042 - Outside of 297-305 Gray's Inn Road.

- 4.8 In paragraph 30 and 31 the Appellant states that the Council has threaten prosecution. As stated above in paragraph 4.3 of this response, the Council has not threatened to prosecute the Appellant but has requested for the unlawfully displayed advertisement to be removed. As part of the letter, the Council has a duty to set out clearly the various steps to be taken following non-response or action from the allege perpetrator that

failure to comply with the Council's request and/or within the various periods given, the Council will have to eventually prosecute the alleged perpetrator.

In this particular, no threat of persecution was ever made, the Appellant having removed the unlawful advertisement on request.

- 4.9 In paragraph 33, the Appellant states that *"As long ago as June 2014 and following the batch of letters from Camden referring to the matters listed above, the writer, acting on behalf of the Appellants, wrote to Camden LBC seeking information on any possible action against either BT or Arqiva in respect of their unlawful advertising on payphones in Camden Conservation Areas. As at the date of this submission, I can confirm that no response to that letter has been received from the Council. It is submitted that in pursuing its planning policies, including in particular enforcement action against all of the operators, the Council as LPA needs to be consistent in how such pursuit is directed."*

The Council has no record of any communication from the Appellant and/or its representative seeking clarification and/or information on actions to be taken against either BT and/or Arqiva.

In paragraph 35, the Appellant states that *"In the absence of any evidence to the contrary. In particular the lack of any response from the LPA to the writer's letter requesting information on details of action taken by the Council against other payphone operators advertising unlawfully, it can be assumed only that no such action against other payphone operators is being pursued by the Council and that there is indeed a complete inconsistency in how planning policy is being implemented by the Council and how decisions, including those on matters of enforcement are being made. ii). That in pursuing rigidly enforcement action, including threats of a criminal prosecution where advertisements had been in place for a number of years" the LPA was behaving both unreasonably and contrary to Government policy "*.

Please refer to the officer's response in paragraph 4.3 and 4.8 of this response.

- 4.10 In paragraph 34, the Appellant refers to an appeal in relation to Fox Investments Case. There is no information on this appeal to connect it to Camden in any shape or form. Appeals associated to Local Authorities other than Camden cannot be used in this particular case to establish how and when Camden is to change its approach in its assessment of advertisements on public telephone kiosks.

5.0 Other Matters

5.1 On the basis of the information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss the appeal.

5.2 If any further clarification of the appeal submissions are required, please do not hesitate to contact Matthias Gentet on the above direct dial number or email address.

6.0 Conclusion

6.1 On the basis of information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss the appeal.

Yours sincerely

Matthias Gentet

