

# Grounds of Appeal

**Pavement outside Euston Tower, Hampstead Road, London,  
NW1 3DP**

**LPA Ref: 2017/3527/P**

**February 2018**

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## 1 Introduction

These Grounds of Appeal have been prepared under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant Prior Approval required under The Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO), Part 16: Communications [Communications Act 2003, Section 106: Electronic Communications Code].

The development proposed is the installation of an electronic communications apparatus (telephone kiosk) on the pavement outside Esuton Tower, Hampstead Road, London, NW1 3DP. The appeal is made by Euro Payphone Ltd<sup>1</sup> against the decision of Camden Council who refused application Ref: 2017/3527/P, dated 14<sup>th</sup> June 2017, by notice dated 7<sup>th</sup> August 2017 on the following grounds:

*"The proposed telephone kiosk, by reason of its location, size and detailed design, would create harmful visual clutter and detract from the character and appearance of the street scene, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017."*

*"The proposed telephone kiosk, by virtue of its location, size and detailed design, and adding 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 Camden Local Plan 2017."*

*"The proposed telephone kiosk, by virtue of its inappropriate siting, size and design, would fail to reduce opportunities for crime and antisocial behaviour to the detriment of community safety and security, and compromise the safety of those using and servicing the telephone kiosk contrary to policy C5 (Safety and Security) of the Camden Local Plan 2017."*

*"The proposed telephone kiosk, by reason of its design, would not be accessible to wheelchair users, failing to promote fair access or meet sufficient standard of design contrary to policy C6 (Access for all) of the Camden Local Plan 2017."*

Prior Approval applications regarding the installation of telecommunications apparatus are subject to control in the interests of **siting and appearance** only. The appellant considers this refusal to be part of a blanket ban on the provision of new telephone kiosks, contrary to the NPPF and the provisions of the GPDO.

The proposed kiosk design is simple, predominantly glazed, durable and open-sided for wheelchair access, with a minimum footprint (1.1m x 1.32m) and height (2.45m) to minimize building bulk and maximise its transparency. The proposed kiosk has a neutral appearance to fit in with modern and traditional street furniture. The dimensions are comparable to existing kiosks and the reinforced, laminated glass panels ensure optimum visibility (**Appendix A**). The proposed structure comprises powder coated metal and a solar panel is included at roof level for power supply (refer to submitted drawings). This statement provides comprehensive justification to demonstrate the compliance of the proposal in its context.

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<sup>1</sup> Euro Payphone Ltd is an electronic communications network provider granted statutory powers by the Communications Regulator (Ofcom) and the Electronic Communications Code under Section 106 of the Communications Act 2003 on 2<sup>nd</sup> March 2006

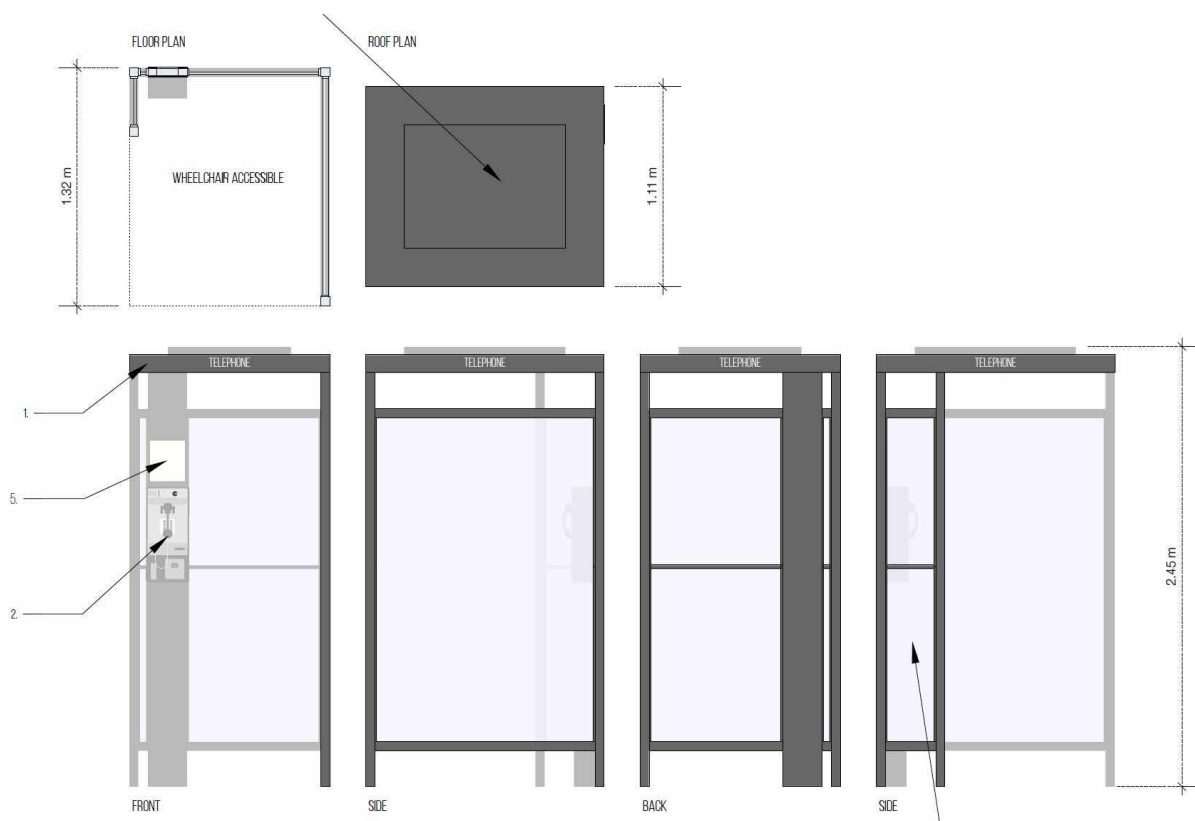


Figure 1 – Proposed telephone kiosk

## 2 Need and Public Benefit

To provide a context to the proposal it should be noted that the amount of telephone kiosks on streets across the UK reduced from 90,000 in 2002 to 46,000 in 2016. BT are proposing to remove a further 20,000 over the next five years. These figures show a rapid decrease in telecommunications coverage in concurrence with the NPPF (Para 46), which states the need for telecommunications equipment cannot be questioned and the proposal must therefore be considered as 'necessary'.

The proposed kiosk is designed to provide full wheelchair accessibility as per The Telecommunications (Services for Disabled Persons) Regulations 2000, Schedule 1, Condition 25.13 (b) which requires all to telecommunications license holders to, "ensure that at any time at least 75% of its public Call Boxes are accessible by reasonable means to users in wheelchairs". A notification under section 48(1) of the Communications Act 2003 also sets out the same requirements (paragraph 6.3 (a)(i). There are no accessible telephone kiosks in the vicinity of the site. Therefore, the proposal is necessary to ensure a minimum 75% of telephone kiosks in this area are accessible.

The proposed telephone kiosk would provide a communication service for the general public who do not have access to a telephone, including those who are disadvantaged and tourists. The facility would also provide an additional contact point in case of emergencies.

## 3 Legislative Background

### Permitted Development Rights

Pursuant to Part 16 of the GDPO, the refused submission did not constitute an application for planning permission, as electronic communications operators avail of full planning permission for the installation and upkeep of telephone kiosks on the highway. Prior Approval is required for matters of siting and appearance only.

### Key High Court Judgments

In 2010, there were two important court cases relating to how applications for Prior Approval should be considered.

**1.** *Murrell v SSCLG & Broadland District Local Planning Authority (2010) ECWA Civ 1367*

It was determined that the LPA had attached disproportionate weight to its planning policies. The court determined that planning permission was granted by virtue of the GPDO, subject to the Prior Approval relating to siting and appearance. The judgment made an analogy between prior approval and outline planning permission, going on to state that *"...the assessment of siting, design and external appearance has to be made in a context where the principle of development is itself not an issue"* (Paragraph 46).

**2.** *Infocus Public Networks Ltd v SSCLG & The Mayor and Commonality of the Citizens of London (2010) EWHC 3309 (Admin)*

Paragraph 66 of the judgment reasons that *"If the primary issues for consideration, once the principle of this kind of development is acknowledged, are the siting and appearance of any kiosk, then "appearance" (though apt to include anything attached to the surface of the kiosk) would ordinarily be thought to be the intrinsic appearance of the kiosk itself"*. In other words, the principle of development has been settled and the reference to the GPDO relates to the appearance of the kiosk itself rather than the appearance of the surrounding area.

This judgment specifically considered the issue of advertising on payphones in considering appearance. In this regard, the judge found that local planning authorities already have sufficient powers to control advertisements, including discontinuance procedures.

In the case of the Euro Payphone appeal, it is believed that the LPA has attached disproportionate weight to its planning policies. On this basis, the principle of development is not considered an issue, nor the appearance of the surrounding area. The appellant seeks Prior Approval relating to siting and appearance in accordance with the GDPO.

### Key Appeal Decisions

There is a wealth of allowed appeal decisions relating to Prior Approval for telephone kiosks. Of particular note are the following allowed appeals, which address similar issues to those highlighted by the Council in the reasons for refusal:

**1.** *Land outside Irongate House, 22-30 Dukes Place, London EC3A 7HX (Appeal Ref. APP/K5030/A/12/2185860)*

The main issue addressed in this appeal was the effect of the proposal on the **character and appearance** of the area as alleged by The City of London Corporation. Inspector Tim Wood noted "Its relatively modest scale in comparison to the buildings nearby would mean that it would not dominate the area and its simple form

would have no detrimental effect on the character of the area” (para 10). Comparatively, a telephone kiosk of this character and appearance at the appeal site would not dominate the street scene nor detract from the character of the area.

**2.** Outside 30 Millbank, Westminster, London SW1P 4DU (Appeal Ref. APP/X5990/A/11/2166164)

The main issue addressed in this appeal was the issue of **clutter**. Inspector Clive Hughes noted “I do not consider that the proposed kiosk, which would be of modest scale, would add unacceptably to the existing street clutter”. Comparatively, a telephone kiosk at the appeal site would not add unacceptably to the street clutter.

**3.** Land at 18-19 Commercial Road & Adjacent to the Tri Centre, Swindon (Appeal Ref. APP/U3935/A/13/2204403 and APP/U3935/A/13/2204462)

The main issues addressed here are the **safety and convenience of users of the public highway** although the general conclusions on character and appearance are also relevant.

The Planning Inspectors decisions are included at **Appendix B** for reference. Contrary to the assertions of the Local Planning Authority, the Inspector determined that all of the above appeals for proposed public payphones would have no detrimental effect on the character of the area and would therefore be appropriate in terms of character and appearance.

## 4 Planning Policy

### National

The **National Planning Policy Framework** (NPPF) was adopted in March 2012 and is a material consideration in planning decisions. Notably, the NPPF outlines measures to support the provision of high quality communications infrastructure, as follows;

- **Para 42** – Identifies communications infrastructure is essential.
- **Para 43 and 44** – Supports telecommunications expansion.
- **Para 46** – Highlights the need for telecommunications and competition between operators.
- **Para 60** – Supports innovation, originality, initiative without imposing architectural styles and tastes.
- **Para 126-141** – Protecting and enhancing the historic environment is a 'Core Planning Principle'. Where changes are proposed, the NPPF sets out a clear decision making framework to conserve, and where appropriate, enhance heritage assets appropriate to their status.

The **National Planning Practice Guidance** (NPPG) was launched in March 2014 and provides planning guidance on 'Conserving and Enhancing the Historic Environment (April 2014), as follows:

- **Para 17** – Explains the meaning of substantial harm and how it relates to the significance of a heritage asset. Development that is moderate or minor in scale is likely to cause less than substantial harm or no harm at all (Para:017 Reference ID: 18a-017-20140306).
- **Para 134** – States when a proposal inflicts less than substantial harm, this harm should be weighed against public benefit.
- **Para 2** – Identifies statutory considerations of the Planning (Listed Buildings and Conservation Areas) Act 1990 (Paragraph: 002 Reference ID: 18a-002-20140306).

The **Planning (Listed Buildings and Conservation Areas) Act 1990** consolidates certain enactments relating to special controls in respect of buildings and areas of special architectural or historic interest. The Act states "The conservation of heritage assets in a manner appropriate to their significance is a core planning principle" and "Conservation is an active process of maintenance and managing change [requiring] a flexible and thoughtful approach to get the best out of assets" (Paragraph: 003 Reference ID: 18a-003-20140306).

The proposed kiosk is not sited in close proximity to any heritage assets, is clearly minor in scale and the addition of a kiosk will provide a public benefit by being fully wheelchair accessible, improving access to communications and providing consumer choice and competition.

### Local Policy

Local policies alone cannot be used to determine an application for Prior Approval, but are a material consideration in assessing siting and appearance impacts. The Development Plan for the area at the time of the application submission comprised of:

- London Plan (March 2016) (consolidated with alterations since 2011);
- Camden Core Strategy 2010-2025 (adopted 2010);
- Camden Development Policies 2010-2025 (adopted 2010); and
- Camden Proposals Map (adopted 2010).

The Inspector's Report on the Camden Local Plan was published in May 2017, concluding that the plan was 'sound' subject to modifications. The new Camden Local Plan was subsequently adopted after the application was submitted on 3<sup>rd</sup> July 2017. The policies of the Camden Core Strategy 2010-2025 and Camden Development Policies 2010-2025 remain material in the determination of this appeal given that they represented current policy at the time of the application submission.



Other policy documents that are material to the consideration and determination of these appeals include Supplementary Planning Guidance (SPGs) and Documents (SPD's) prepared by the Greater London Authority and Camden Council.

## London Plan

The London Plan (Published in March 2016) is the overall strategic plan for London, setting out an integrated economic, environmental, transport and social framework for the development of London over the next 20–25 years. The relevant policies of the London Plan identified in the Officer's Report and a description of the policy requirements are set out below:

- **Policy 6.10b 'Walking'** requires development proposals to "ensure high quality pedestrian environments and emphasise the quality of the pedestrian and street space by referring to Transport for London's Pedestrian Design Guidance".
- **Policy 7.5 'Public Realm'** requires the public realm to be comprehensible at a human scale, and public spaces should be connected whilst street furniture should "be of the highest quality, have a clear purpose, maintain uncluttered spaces and should contribute to the easy movement of people through the space".

## Camden Core Strategy

The Camden Core Strategy was adopted in 2010 and was a key policy document for determining planning applications in Camden at the time of the application's submission.

Despite paragraph 43 of the NPPF stating. "In preparing Local Plans, local planning authorities should support the expansion of electronic communications networks, including telecommunications", the Core Strategy does not contain a policy dealing with telecommunications or street furniture. The appellant considers that the following policies of the Core Strategy are relevant in the determination of the appeal:

- **Policy CS1 'Distribution of growth'** seeks to focus development in Camden upon the most suitable locations.
- **Policy CS5 'Managing the impact of growth and development'** refers to a requirement to provide infrastructure and facilities which meet the needs of Camden's population whilst protecting and enhancing amenity.
- **Policy CS11 'Promoting sustainable and efficient travel'** promotes a desire to improve public spaces and pedestrian links across the borough.
- **Policy CS17 'Making Camden a safer place'** refers to a requirement to promote safer streets and public areas and for development to demonstrate that design principles have been incorporated which contribute to community safety and security.

## Camden Development Policies

Camden's Development Policies was adopted in 2010 and was a key policy document for determining planning applications in Camden at the time of the application's submission.

Despite paragraph 43 of the NPPF stating. "In preparing Local Plans, local planning authorities should support the expansion of electronic communications networks, including telecommunications", the Core Strategy does

not contain a policy dealing with telecommunications or street furniture. The appellant considers that the following policies of the Core Strategy are relevant in the determination of the appeal:

- **Policy DP16 'The transport implications of development'** states that development will be resisted which doesn't address movements to, from and within the site.
- **Policy DP17 'Walking, cycling and public transport'** refers to a desire to promote walking. It is stated that development must make suitable provision for pedestrians including footways designed to appropriate widths.
- **Policy DP21 'Development connecting to the highway network'** states that the Council will expect works affecting the highway network to address the needs of wheelchair users, people with sight impairments and other vulnerable users, to avoid causing harm to highway safety or hinder pedestrian movement and avoid unnecessary street clutter, and to contribute to the creation of high quality streets and public spaces.
- **Policy DP24 'Securing high quality design'** requires all development to be of the highest standard of design, expecting character, setting, context and form to be appropriately considered.
- **Policy DP29 'Improving access'** requires all spaces that may be used by the public to be designed to be as accessible as possible.

### Camden Local Plan

The Camden Local Plan was adopted following submission of the application on 3<sup>rd</sup> July 2017. As such, substantial weight was applied to the relevant policies of the emerging plan as a material consideration in the determination of the application. The Officer's Report identifies that the proposed scheme is contrary to a number of policies. An outline of each policy is set out below and further justification provided in the Planning Consideration section:

- **Policy A1 'Managing the impact of development'** states that the Council will seek to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities.
- **Policy C5 'Safety and Security'** requires development to contribute to community safety and security.
- **Policy C6 'Access'** requires new buildings, spaces and facilities that the public may use to be fully accessible to promote equality of opportunity.
- **Policy D1 'Design'** will require all developments to be of the highest standard of design and to respect the character, setting, form and scale of neighbouring buildings, its contribution to the public realm, and its impact on wider views and vistas.
- **Policy G1 'Delivery and location of growth'** seeks to deliver growth by securing high quality development and promoting the most efficient use of land and buildings.
- **Policy T1 'Prioritising walking, cycling and public transport'** states that the Council will promote sustainable transport choices by prioritising walking, cycling and public transport use. In order to promote walking in the borough and improve the pedestrian environment, the Council will seek to ensure that developments improve the pedestrian environment by supporting high quality improvement works, and make improvements to the pedestrian environment including the provision of high quality safe road crossings where needed, seating, signage and landscaping.

## Supplementary Planning Documents

Camden Planning Guidance CPG1 'Design' (paragraphs 9.26 & 9.27) states that the proposed siting of new kiosks must be considered to ensure that there is limited impact upon the sightlines of the footway. It is also stated that the size of kiosks should be minimised to limit impact on the streetscene and to decrease opportunities for crime and anti-social behaviour. A copy of the guidance is attached as **Appendix C**.

Camden Planning Guidance CPG7 'Transport' seeks improvements to streets and public spaces in order to ensure good quality circulation. The guidance refers to a need to maximise pedestrian accessibility and avoid unnecessary street clutter. A copy of the guidance is attached as **Appendix D**.

There is no direct conflict between the proposal and the policies or guidance above. This is discussed further in Section 6.

## 5 Highways Guidance

There is a wealth of differing guidance pursuant to streetscape design, and in particular footway widths, which is vital to consider when determining the appeal. In summary, the guidance demonstrates that a minimum unobstructed footway of at least **2 metres** is required nationally.

### National Guidance

There are two documents prepared by the Department for Transport (DfT) which are of relevance (**Appendix E**):

- **Inclusive Mobility (2005)** sets out specific footway dimensions (Section 3.1 – Widths). A minimum unobstructed width of **2m** is recommended under normal circumstances.
- **Manual for Streets (2007)** does not set an absolute minimum footway width but instead states that minimum unobstructed widths for pedestrians should generally be **2m**.

### Transport for London Guidance

Most importantly, TfL have devised a Pedestrian Comfort Guidance (2010) assessment methodology to establish desired footway widths to maintain pedestrian comfort levels. The methodology forms a specific well-informed and quantitative assessment which categorises roads according to pedestrians per hour (pph). The categories include:

- Low Flow < 600pph
- Active Flow < 600-1200pph
- High Flow > 1200pph

The following table provides a summary of the minimum requirements for each category:

*Table 1 Summary of the TfL Pedestrian Comfort Guidance*

Recommended footway width	Flow			Notes
	Low	Active	High	
Total width	2.9m	4.2m	5.3m	This is deemed to be enough space for comfortable movement and a large piece of street furniture such as guard rail, cycle parking (parallel with the road), a bus flag for a low activity bus stop or a busy pedestrian crossing. Kiosks are not specifically mentioned but could be considered a large piece of street furniture, comparable to those listed above. High Flow allows comfortable movement up to 2,000 pph.
High street or tourist areas	2.6m	3.3m	-	This is deemed appropriate if there is no street furniture (except street lights) to allow space for: <ul style="list-style-type: none"> <li>• Low - people walking in couples or families and with prams</li> <li>• Active - two groups to pass</li> </ul>
Transport interchange (e.g. railway stations)	-	-	>5.3m	More space may be required if there are multiple bus stops on one footway
Other areas / no furniture	2.0m	2.2m	3.3m	This is deemed appropriate if there is no street furniture. This total unobstructed width is required for two users to pass comfortably and to meet DfT minimum standards.

				The clear footway width with no street furniture is the total width minus 400mm. Refer to <b>Appendix F</b> .
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The TfL document divides the area between the kerb line and the highway boundary into four zones. A minimum footway clear zone of **2m**, excluding a furniture zone, frontage zone and kerb zone (450mm - 650mm) is recommended, however it also states that telephone kiosks can be accommodated in furniture zones with a width of 1.6m to 2m. as shown in the following images.

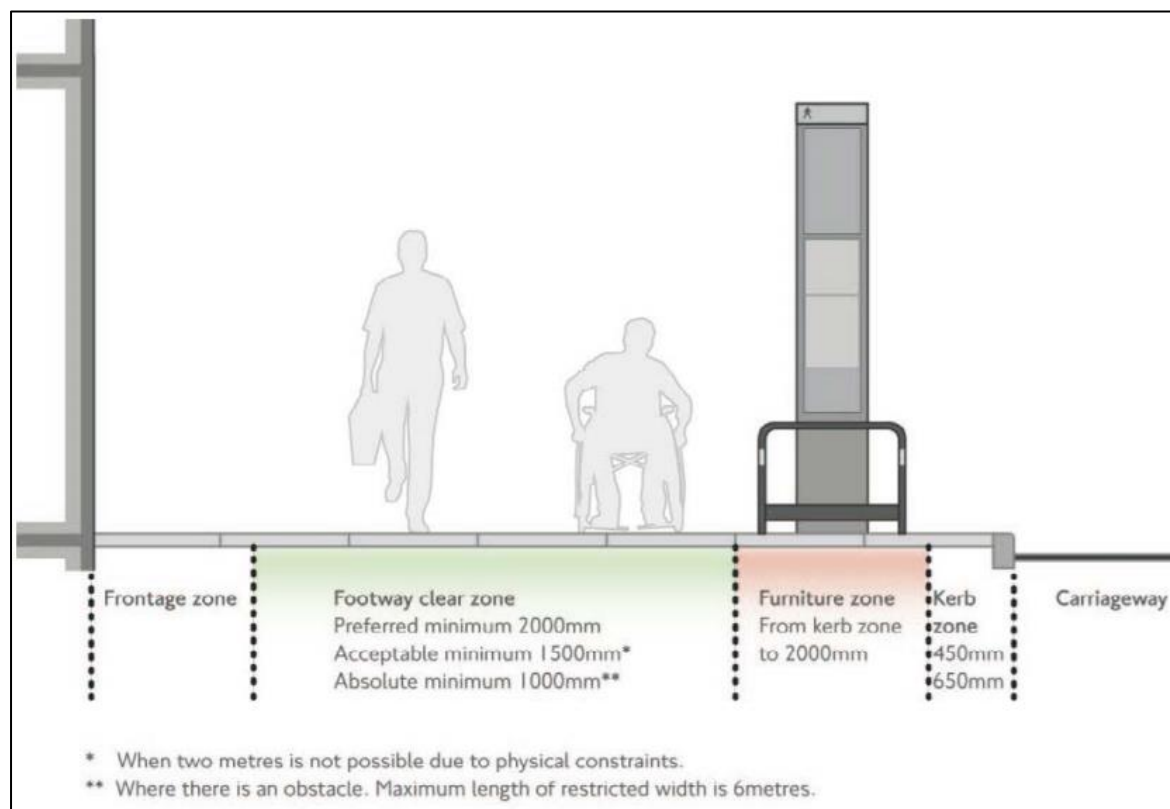


Figure 2 Footway Zones (TfL Guidance 2016, Figure 205)



Figure 3 Footway Zones [TfL Guidance 2016, Part E – Physical design and materials]

## Camden Guidance

The Camden Streetscape Design Manual (2005) refers to a requirement of a minimum footway width of 1.8m to allow two adults to pass and a minimum width of 3m for busy pedestrian streets. The importance of clear sightlines for pedestrians is also stressed.

## Summary

Whilst there is a range of differing streetscape guidance, the appellant has sought to comply with the TfL Pedestrian Comfort Guidance in the siting of the kiosk as this features the most robust methodology.

The appellant has assumed the maximum High Flow scenario, therefore the total footway width must be no less than **5.3 metres** as the telephone kiosk is a piece of street furniture. Where there is a piece of street furniture, the total footway width must include an unobstructed clear footway width of **3.3 metres**.

The appeal site provides a total footway width of **8m** (greater than 5.3m) and an unobstructed clear footway width of **6.08m** (greater than 3.3m). Therefore, the appellant is of the view that the siting of the proposed kiosk allows comfortable movement up to 2,000pph in accordance with the maximum guidelines. This is discussed in further detail in Planning Considerations (Section 6).

Table 2 Location Summary

Total footway width	Pedestrian traffic level observed	Distance to kerb	Kiosk width	Unobstructed footway width	Compliance with Highways Guidance
8m	High	0.6m	1.32m	6.08m	Yes

Notwithstanding the technical assessment, it can also be seen on site that the proposal is within the established furniture zone and does not compromise any pedestrian desire lines.

## 6 Planning Considerations

Importantly, the principle of the siting of a telephone kiosk has been established by Part 16 of the GPDO. Local planning authorities are not permitted to prevent competition between different operators or question the need for telecommunications systems (NPPF, para 46). The NPPF recognises that high quality communications infrastructure plays a vital role in enhancing the provision of local community facilities and services which is **essential for sustainable economic growth** (NPPF, para 42). Local planning authorities are required to support the expansion of electronic communications networks, including telecommunications, to ensure that equipment is appropriately designed (NPPF, para 43). They are **not permitted to impose a ban on new telecommunications development** or insist on minimum distances between new and existing development (NPPF, para 44). Local planning authorities are not permitted to impose architectural styles or particular tastes or stifle innovation, originality or initiative through unsubstantiated requirements (NPPF, para 60).

On this basis, the appellant considers the proposal complies with the NPPF and the Local Plan. Despite this, the Council have refused the proposed kiosk on the following grounds:

- Visual Clutter
- Highway Safety
- Crime and Anti-Social Behaviour
- Wheelchair Accessibility

The following responds to the Officer's reasons for refusal.

Euro Payphone Ltd has developed a stringent process for choosing telephone kiosk locations, to ensure the siting is acceptable in terms of amenity and public safety, whilst also being commercially viable. Sites are selected based on:

- An appropriate level of pedestrian flow to ensure the proposal will be viable;
- Potential impact on Conservation Areas or Listed Buildings/Structures;
- Sightlines for motorist and pedestrians;
- The siting of existing street furniture;
- The Council's planning policies, proposal/policy map and guidelines for street furniture; and
- Existing kiosks and current planning applications.

The appeal site is located on the pavement outside Euston Tower, Hampstead Road. This is a busy town centre location, the immediate surrounding area being dominated by large commercial buildings of varying age, design and height. An abundance of commercial uses and existing items of street furniture are in situ in the surrounding area.

### Visual Clutter

The reason for refusal states that the siting of the kiosk would add street clutter to this part of Camden. 'Clutter' is defined by Wikipedia as "a confused or disordered state or collection" whilst the Collins English Dictionary defines it as "a disordered heap or mass of objects". A number of lamp posts, cycle stands and street trees are the only items of street furniture in close proximity to the proposed kiosk location. As such, the appellant is at a loss as to how the siting of the proposed kiosk would result in street clutter at the appeal location. The appellants' interpretation of the refusal is that Camden Council consider that adding any street furniture in any location constitutes the creation of clutter, to the detriment of the streetscene.

The Officer's Report refers to a number of existing telephone kiosks which are sited in the locality. It should be noted that none of these existing kiosks are wheelchair accessible. The appellant also wishes to draw attention to the fact that the NPPF (Paragraph 46) stipulates that local planning authorities should not impose



a ban on new telecommunications development in certain areas, nor seek to prevent competition between different operators or question the need for telecommunications systems.

It should be considered that need and public benefit are not material considerations given that the refused application did not constitute an application for planning permission. Electronic communications operators avail of full planning permission for the installation and upkeep of electronic communications apparatus on the Highway in accordance with Part 16 of the GPDO. Part 16 states that Prior Approval applications for telecommunications apparatus should only be controlled where there are sufficient concerns regarding siting or appearance. **To consider issues beyond siting and appearance would be ultra vires.**

The appeal site is located on an area of wide footway, providing ample room for street furniture and unobstructed pedestrian flow. The kiosk would be located 600mm from the kerb, within the street furniture zone (aligned with the existing street furniture), outside of the established lines of pedestrian flow. Therefore, there would be no obstructions as a result of the development and it would not lead to clutter as it would be located in an ordered manner in accordance with TfL guidance, at a location where it would be expected to see street furniture in an area not overburdened with other street furniture. The above has demonstrated compliance with **Policies A1, D1, G1 and T1** of the Camden Local Plan.

It is considered that the Local Planning Authority has incorrectly applied the street furniture guidance and failed to demonstrate why the proposed kiosk would lead to clutter. The appeal proposal is a minor development which would result in no harm to the adjacent heritage assets, as per the NPPF.

## Highway Safety

The reason for refusal raises concerns regarding a reduction in the amount of usable, unobstructed footway at the appeal site to the detriment of public safety and pedestrian movement. The Officer's Report states that the appeal site experiences extremely high pedestrian flows, particularly at peak times. It is stated that the proposed kiosk "could have an impact on highway safety through interfering with signals, visual obstructions, visibility splays and leading to overcrowding", and is unacceptable as a result.

As discussed previously, there is a wealth of differing guidance regarding streetscape design and the appropriate width of footways. A **minimum unobstructed footway width of 2m is recommended** in both the Department for Transport's 'Manual for Streets (2007)' document and TfL's 'Streetscape Guidance (2016)' documents, whilst the Camden Streetscape Design Manual (2005) recommends 1.8m. The appellant has assumed the highest pedestrian flow for this area in accordance with TfL's Pedestrian Comfort Guidance (2010) to demonstrate that the proposal achieves the highest TfL recommendations.

This system was devised by TfL to categorise red route roads according to pedestrian flow levels and recommends footway widths accordingly. The Pedestrian Comfort Guidance sets out an assessment to calculate footway widths and represents the most robust methodology of all the guidance documents. It should be noted that the minimum recommended footway widths within the guidance contradict those laid out in TfL's more recent 'Streetscape Guidance (2016)' document. The **High Flow scenario accommodating 2,000pph** has been assumed by the appellant to demonstrate that the proposal complies with the maximum guideline requirement.

The minimum total footway width (including a large piece of street furniture) recommended by TfL for a High Flow scenario is 5.3m. In this scenario there must be an unobstructed footway width of 3.3m minimum. In accordance with the Pedestrian Comfort Guidance, the footway width at the appeal site is **8m (greater than 5.3m)** and the unobstructed footway width would be **6.08m (greater than 3.3m)**, allowing 1.32m for the proposed kiosk with a setback of 600mm to the kerb edge.



Figure 4 Footway zones at appeal site (Appendix F)

The Officer's Report refers to objections from TfL and the Council's Transport Strategy officer due to a lack of detailed drawings depicting the exact position of the kiosk on the footway, the proposed distance from the kerb, leftover footway widths and street furniture in close proximity. The appellant is of the opinion that sufficient information was submitted to determine the application. Telecommunications applications submitted for prior approval pursuant to The Town and Country Planning (General Permitted Development) (England) Order 2015 do not need to be in any particular form and do not need to be accompanied by anything more than what is prescribed by the GPDO. Part 16, Condition A.3 (4)(a) of the GPDO requires prior approval applications to be accompanied by *"a written description of the proposed development and a plan indicating its proposed location together with any fee required to be paid"*. A High Court judgement in 2010 (Murrell v SSCLG & Broadland District Council (2010) ECWA Civ 1367) confirmed the required submission documents for prior approval applications, stating *"The application for determination as to whether prior approval is required does not need to be in any particular form and does not need to be accompanied by anything more than a written description of the proposed development and of the materials to be used and a plan indicating the site, together with the required fee"* (Para 29). A location plan indicating the proposed location of the kiosk was submitted as part of the application, along with a cover letter. As such, the requirements of the GPDO were fulfilled as confirmed by the validation and registration of the application. The appellant also wishes to highlight that further information in this regard was not requested at application stage. In any case, the information in the preceding paragraphs has demonstrated that the proposed kiosk location complies with both the TfL and Camden standards.

There is no existing bulky street furniture immediately adjacent to the appeal site. As such, the siting of a kiosk in this location would not impede pedestrians wishing to cross Hampstead Road at this point. Further to this, the appellant does not consider the appeal site to be a natural crossing point, given that traffic signal controlled pedestrian crossings are located adjacent to the south, providing a natural crossing point. Pedestrians will naturally be drawn to this safe passage when seeking to cross Hampstead Road given the highly trafficked nature. It is also important to note that the back and sides of the kiosk would consist of reinforced laminated glass panels which provide excellent through visibility, further reducing any risk of sight lines being impeded. The kiosk would be subject to a programme of regular maintenance and cleaning which will ensure that the glass panels remain in a transparent state, discouraging anti-social behaviour.

A review of the available CrashMap data for the last three years uncovers only one slight accident in the vicinity of the appeal site. As such, this could not be considered an inherently dangerous stretch of road.

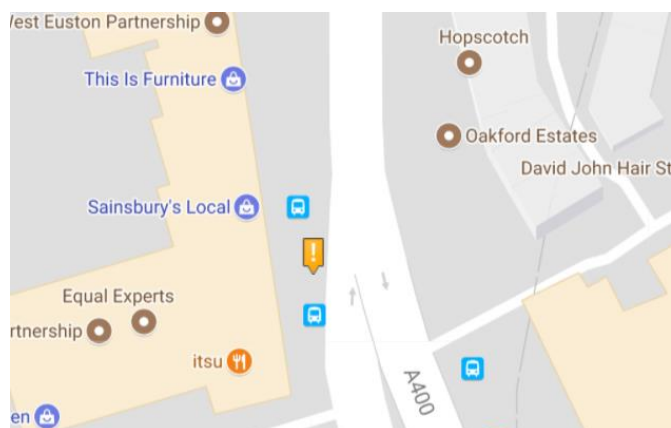


Figure 5 Available CrashMap data at appeal site (2015-17)

Additionally, the Camden Streetscape Design Manual states that telephone kiosks should be placed at a minimum of 0.45m back from the carriageway. The above has demonstrated that the appeal proposal complies in this regard. As previously mentioned, the proposed kiosk complies with the recommended TfL Pedestrian Comfort Guidance which accounts for sufficient footway space and adequate pedestrian movement, whilst also complying with Policies A1, C6, G1 and T1 of the Camden Local Plan.

## Crime and Anti-Social Behaviour

Reason for Refusal 3 asserts that the siting, size and design of the kiosk would fail to reduce opportunities for crime and anti-social behaviour to the detriment of community safety and security. The Officer's Report refers to an objection from the Designing Out Crime Officer in this regard. Regarding the design, Euro Payphone recognise that the traditional public telephone kiosk requires modernisation to reflect the needs of present day society. The old style kiosks suffer from a range of difficulties including anti-social behaviour. In addition to this, the old style K2 & K6 kiosks based upon the designs of Sir Giles Gilbert Scott have ceased to be installed throughout the UK due to a lack of compliance with current disability regulations, as per guidance issued by Ofcom. As such, the proposed kiosk has been designed so that it will be easily accessible to wheelchair users (please refer to kiosk specification drawing).

The proposed kiosk measures 1.32m by 1.11m, ensuring full wheelchair accessibility as per The Telecommunications (Services for Disabled Persons) Regulations 2000, Schedule 1, Condition 25.13 (b) of which requires all to telecommunications license holders to, "*ensure that at any time at least 75% of its public Call Boxes are accessible by reasonable means to users in wheelchairs*". A notification under section 48(1) of the Communications Act 2003 also sets out the same requirements (paragraph 6.3 (a)(i)). As such, it is no longer possible to provide kiosks designed similarly to the K2 and K6 installations of the past as they cannot be accessed by wheelchair users.

The proposed kiosk has been designed, in contrast to the traditional style kiosks, with an open side which renders activities completely visible to passers-by. As such, the proposed kiosk will be much less appealing to individuals wishing to engage in anti-social behaviour.

The structure consists of powder coated metal with reinforced, laminated glass panels which will ensure optimum see through visibility. The kiosk would be subject to a programme of regular maintenance and cleaning which will ensure that the glass panels remain in a transparent state, discouraging anti-social behaviour.

The proposed kiosk has been designed to ensure that the call box will be simple and functional in form, durable and with a minimum footprint, allowing for easy, seamless integration into its surroundings. The design forms part of the Euro Payphone brand in the same way that the BT kiosks do.

The appellant also wishes to draw attention to allowed appeals for the installation of a telephone kiosks within the Borough of Camden on the pavement outside 105 Tottenham Court Road (Appeal Ref: APP/X5210/A/12/2178982) and on the pavement outside 148-149 Holborn (Appeal Ref: APP/X5210/A/12/2187079). Regarding the potential for crime and anti-social behaviour, the Inspector for appeal APP/X5210/A/12/2178982 stated, *"these concerns apply to all payphones. The GDPO and the National Planning Policy Framework establish that, in planning terms, payphones are, in principle, an acceptable form of development. Insofar as these concerns are relevant to the case before me then the location would be open to wide public surveillance"*. The Inspector for appeal APP/X5210/A/12/2187079 referred to the above comments, adding, "I am far from convinced that the proposed siting or appearance of the payphone, in themselves, would serve to encourage or increase crime or anti-social behaviour in the locality".

Further to the above, paragraph 4.3 of the Officer's Report states, *"the proposed structure is considered to be a very poor design in terms of size, scale, massing and proposed materials"*. It should be considered that Paragraph 60 of the NPPF outlines that local planning authorities, *"should not attempt to impose architectural styles or particular tastes"*, nor should they, *"stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles"*. The kiosk design is simple and functional as it is an operational piece of equipment that serves a purpose in providing much needed services to the public. In this regard, it is reflective of the designs of other telephone kiosks on the street in Camden. A solar panel will be included at roof level, providing the added benefit of environmental sustainability. It should also be considered that the design process has been informed by a desire to render the kiosk fully wheelchair accessible which is not the case with the old style kiosks located in the surrounding area and referred to in the Officer's Report. To impose restrictions on designs of one operator will stifle competition and in this entrance a new entrant to the market. As such, it is considered that the proposal complies with **Policy C5** of the Camden Local Plan.

## Wheelchair Accessibility

Reason for Refusal states that the proposed kiosk would not be accessible to wheelchair users, contrary to **Policy C6** of the Camden Local Plan. Further to this, Paragraph 4.6 of the Officer's Report states that whilst wheelchair users would be able to access the kiosk, an objection was received from the Council's Access Officer due to a number of stipulations which it is stated are required for an accessible phone booth. The requirements are taken from the British Standard document 'BS8300 – 2009+A1:2010 – Design of buildings and their approaches to meet the needs of disabled people – Code of practice'. The requirements are lifted from section 10.4 which deals with the provision of public telephones in buildings. The appellant is of the view that the British Standard requirements are not relevant as they regard the design of buildings and the requirements are relevant to the provision of telephones within buildings. The appeal proposal relates to the siting of a telephone kiosk and so the British Standard requirements are irrelevant.

However, the appellant has reconsidered the positioning of the telephone within the kiosk in response to the concerns raised. The telephone depicted on the submitted plans features a telephone at a height of 1667mm above ground level. The appellant has reviewed the design accordingly and sought to provide a universally inclusive kiosk.

Having established the comfortable working height of the keypad for both wheelchair users and able bodied persons, the appellant has relocated the tactile key of the numeric key pad 'No5' at a height of 1200mm. This point is located at the centre of the zone of comfortable reach. The height of the handset and telephone keypad have been calculated using 'Architects Data – 4<sup>th</sup> Edition' by Ernst Neufert. The book contains the diagrammatic zone of reach for wheelchair users and able bodied people, and is based on a universal ergonomic standard. Additional diagrammatic data to further validate the calculations has been taken from 'Centre of Excellence in Universal Design' website - [www.universaldesign.ie](http://www.universaldesign.ie). An amended kiosk plan has been submitted in this regard as **Appendix G**, addressing the issue.

The proposed kiosk is not enclosed like the majority of existing BT kiosks and kiosks of other operators. Two sides of the proposed kiosk sides are open, providing a betterment on the majority of existing kiosks on

Camden's streets which are incapable of accommodating wheelchairs, whilst also allowing a wheelchair user to comfortably manoeuvre into position and make calls with a degree of privacy and screening from noise/elements. In addition, a clear footway zone of 6.08m would be provided in front of the kiosk should the appeal be allowed. As such, the proposal complies with **Policy C6** of the Local Plan which requires inclusive design.

## **Further Considerations**

### **Potential for Advertising**

The Officer's Report makes several references to the potential for advertising on any approved kiosk. Please refer to the 'Key High Court Judgments' section above, wherein it is noted that local planning authorities have sufficient powers to control advertisements, including discontinuance procedures and that, once the principle of this kind of development is acknowledged, the primary issues to be considered are the siting and appearance of the kiosk. It was determined that the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 provides a self-contained code for the regulation of advertising materials attached to the surface of telephone kiosks. As such, the potential for advertising should neither be considered, nor conditioned when determining prior approval applications for telephone kiosks. As such, it would be ultra vires to consider the potential for advertising when determining a prior approval application for the siting of a telephone kiosk.

## 7 Conclusion

The principle of the development is established by Part 16 of the GPDO, which states that Prior Approval applications for telecommunications apparatus should only be controlled where there are sufficient concerns regarding siting or appearance.

The Council has issued a **generic refusal** and **has not provided evidence** to justify their decision. This statement provides evidence to justify the proposed siting and appearance of a telephone kiosk in this location in accordance with national and local policies and guidance and should be allowed, based on the following justification:

- **Clutter** – Given the scale of the adjacent buildings, the width of the footway and appearance of other street furniture (i.e. bus shelters, telephone kiosks, sign posts), the proposed kiosk would not create a prominent visual impact on the streetscape. The proposed kiosk aligns with other street furniture on the pavement at the appeal site, and, as such, the proposed kiosk should be acceptable as it does not contribute to clutter. The proposed scheme enhances the public realm by providing access to telecommunication infrastructure, complying with Policies D1 of the Local Plan.
- **Unacceptable impact upon pedestrians** – The proposed kiosk complies with the recommended TfL Pedestrian Comfort Guidance which accounts for sufficient footway space and adequate pedestrian movement up to 2,000pph, complying with the Camden Streetscape Design Manual and Policies A1, C6, G1 and T1 of the Local Plan.
- **Crime and anti-social behavior** – The proposed kiosk has been designed with reinforced, laminated glass panels and an open side which renders activities completely visible to passers-by. As such, the proposal complies with Policy C5 of the Local Plan.
- **Wheelchair Accessibility** – The proposed kiosk is fully accessible to wheelchair users in accordance with The Telecommunications (Services for Disabled Persons) Regulations 2000. The proposal therefore fully complies with Policy C6 of the Camden Local Plan.

Overall, this statement has demonstrated the proposal complies with National and Local policies and should be allowed. As such, it is not considered that the kiosk's siting and appearance can form a sound reason to refuse the application in this instance.

## Appendix A



## Schedule of Telephone Kiosks on UK Streets (Chronological Order)



K2 Kiosk

2.74m (h) x 1.00m (w) x 1.00m (w)



K6 Kiosk

2.44m (h) x 0.91m (w) x 0.91m (w)



## Schedule of Telephone Kiosks on UK Streets (Chronological Order)



BT KX100 kiosk

2.16m (h) x 0.89m (w) x 0.90m (d)



BT KX100+ kiosk

2.21m (h) x 0.89m (w) x 0.90m (d)

## Schedule of Telephone Kiosks on UK Streets (Chronological Order)



Infocus Kiosk

2.56m (h) x 1.32m (w) x 1.11m (d)



Arquiva Kiosk

2.43m (h) x 0.95m (w) x 0.94m (d)

## Schedule of Telephone Kiosks on UK Streets (Chronological Order)



New World Payphones 'Modern' Kiosk

2.43m (h) x 0.90 (w) x 0.90 (d)



BT Street Talk 6 Kiosk

2.64m (h) x 1.34m (w) x 0.8m (d)



## Schedule of Telephone Kiosks on UK Streets (Chronological Order)



New World Payphones Kiosk

2.64m (h) x 1.34m (w) x 0.8m (d)



BT Link

2.9m (h) x 0.89m (w) x 0.27m (d)

## Appendix B



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# Appeal Decision

Site visit made on 2 March 2012

**by Clive Hughes BA (Hons) MA DMS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 8 March 2012**

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**Appeal Ref: APP/X5990/A/11/2166164**

**Outside 30 Millbank, Westminster, London SW1P 4DU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
  - The appeal is made by Derek Parkin, Infocus Public Networks Ltd against the decision of City of Westminster Council.
  - The application Ref 11/07496/TELCOM, dated 3 August 2011, was refused by notice dated 26 September 2011.
  - The development proposed is installation of a public payphone on the pavement.
- 

## Decision

1. The appeal is allowed and approval is granted under the provisions of Part 24 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for the siting and appearance of the installation of a public payphone on the pavement outside 30 Millbank, Westminster, London SW1P 4DU in accordance with the terms of the application Ref 11/07496/TELCOM, dated 3 August 2011 and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with plans/ photographs Nos (A) to (H) inclusive.
  - 2) No development shall take place until samples of the materials to be used, including the colour of the kiosk, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the colour shall be retained for as long as the kiosk remains in situ.
  - 3) In the event that the telephone kiosk is no longer required for the purposes of telecommunication or is made redundant, then it is to be removed from the site and works to the pavement made good.

## Reasons

2. The application is made under the above Development Order and concerns only the siting and appearance of the development. The main issue is the effect of the proposed development on the street scene.
3. The kiosk would be sited on a wide section of pavement outside the Millbank Centre, close to the kerb. The Council has not explained how the kiosk would be harmful to visual amenity other than by stating that it would add street clutter to this part of the City. While there is little in the way of street furniture, other than street lights and a letter box, on the relatively short section of pavement outside this part of the Millbank Centre, there are

numerous other items in the immediate vicinity that impact upon the street scene and that need to be taken into consideration in calculating the visual impact of the proposed kiosk.

4. In addition to a bus shelter at Tate Britain, there is a substantial bicycle hire/ parking area; car parking bay signs; red route signs; cycle way signs; and various bollards and signage around the vehicular entrance to the Millbank Centre. In this context, I do not consider that the proposed kiosk, which would be of modest scale, would add unacceptably to the existing street clutter. The kiosk would have a simple design, be mostly made of glass, and the steel frame would be painted black to match other street furniture in the area. The Council has not identified how the development would relate to *Westminster way – Public realm strategy 2011*, its recent Supplementary Planning Guidance, or how it would conflict with Policy DES 1 of its *Unitary Development Plan*. The design, form, materials and appearance of the kiosk would not be greatly dissimilar to the nearby bus shelter, albeit without the extensive advertising panels. It would be acceptable in the street scene and so would accord with Policy DES 7(B)(1) of the UDP. There would be no unacceptable conflict with UDP Policies DES 1 or STRA 28, and no conflict with *Core Strategy* Policy CS27.
5. In view of the above, I conclude that the appeal should succeed. I have not imposed the suggested condition concerning hours of building work as no reason for this has been provided and as there would be no impact on residential amenity. I have imposed conditions concerning materials and colour in the interests of the visual amenity of the area and requiring that the kiosk be removed when no longer necessary for the same reason. I have identified the plans for the avoidance of doubt and in the interests of the proper planning of the area.

*Clive Hughes*

Inspector



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# Appeal Decision

Site visit made on 16 October 2012

**by Bern Hellier BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 October 2012**

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**Appeal Ref: APP/X5210/A/12/2178982**

**Pavement outside 105 Tottenham Court Road, London, W1T 4TT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Part 24 of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO).
  - The appeal is made by Infocus Public Networks Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2012/1695/P, dated 13 March 2012, was refused by notice dated 1 May 2012.
  - The development proposed is the installation of a public payphone.
- 

## Decision

1. The appeal is allowed and approval is granted under the provisions of Part 24 of the Town and Country Planning (General Permitted Development) Order 1995 for the siting and appearance of a public payphone sited on the pavement outside 105 Tottenham Court Road, London, W1T 4TT in accordance with the terms of the application Ref 2012/1695/P, dated 13 March 2012, subject to the following condition.
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing labelled Solar Powered Telephone Kiosk (with wheelchair access); Site Plan; and Photograph showing proposed position of phone kiosk.

## Main issues

2. As an electronic communications Code Operator the appellant benefits from deemed planning permission granted by Part 24 of the GPDO for the proposed payphone but subject to applying to the Council for prior approval of its siting and appearance. The Council has refused permission. The main issues are the effect of the siting and appearance of the payphone on, firstly the safety and convenience of pedestrians and, secondly, on the appearance of the street scene.

## Reasons

3. The payphone would be a modest structure with a footprint of approximately 1.1 x 1.3 metres constructed with a black steel frame infilled with clear polycarbonate glass. It is open on one and a half sides to give good wheelchair access.
4. Tottenham Court Road at this point is a busy shopping street. The payphone would be sited close to the road on a stretch of 8.5 metres wide footway where



there are already four payphones, a post box and a line of street trees. The footway is heavily used by pedestrians and food and drink establishments have outdoor seating areas, although not immediately adjacent to the appeal site. The roadside is also used for servicing shops and for refuse collection. The introduction of the proposed payphone in this location would have no material effect on the free flow of pedestrians or servicing activities.

5. In relation to its visual impact the payphone is of a sound functional design which would be readily assimilated into the street setting as one of a number of items of street furniture. Whilst it would, by definition, increase the clutter of street furniture, the scale, width and openness of the street is such that the impact of the payphone either alone or in combination with existing structures would not be visually dominant or disruptive.
6. I note the concerns of both the local police crime prevention advisor and a local shop owner at the use of phone boxes for criminal and anti-social activity. However these concerns apply to all payphones. The GDPO and the National Planning Policy Framework establish that, in planning terms, payphones are, in principle, an acceptable form of development. Insofar as these concerns are relevant to the case before me then the location would be open to wide public surveillance.
7. I conclude that the siting and appearance of the proposed payphone would be satisfactory. It would not materially harm the safety and convenience of pedestrians or the appearance of the street scene, thereby complying with the requirements of the relevant development plan policies set out in the Core Strategy<sup>1</sup>. I shall therefore allow the appeal.

*Bern Hellier*

INSPECTOR

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<sup>1</sup> Camden Core Strategy 2010-2025. Published November 2010. Policy DP21 *Development connecting to the highway network* and Policy DP24 *Securing high quality design*



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# Appeal Decision

Site visit made on 14 May 2013

**by P G Horridge BSc(Hons) DipTP FRICS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 June 2013**

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**Appeal Ref: APP/E5900/C/12/2182746**

**Footway outside 15-17 Leman Street, London E1 8EN**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by the Mayor and Burgesses of the London Borough of Tower Hamlets.
- The appeal is made by Infocus Public Networks Limited (Derek Parkin).
- The Council's reference is ENF/12/00159.
- The notice was issued on 11 July 2012.
- The breach of planning control as alleged in the notice is the installation of a pay phone kiosk on the footway.
- The requirements of the notice are to remove the pay phone kiosk, remove all materials from the site and repair any damage to the footway.
- The period for compliance with the requirements is 14 days.
- The appeal is proceeding on the grounds set out in section 174(2)[a] and [c] of the Town and Country Planning Act 1990 as amended.

**Summary of decision: The enforcement notice is quashed.**

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## The appeal on ground (c)

1. This is that the phone kiosk benefits from the planning permission granted by Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the 'GDPO').
2. Certain facts relating to this appeal are not in dispute. The kiosk is one to which the provisions of Part 24 apply. Developments under Part 24 are subject to the 'prior approval' procedure. An application for prior approval was made to the local planning authority. The authority had 56 days in which to give notice whether prior approval was required, and for the applicant to receive such notice. Both parties agree that the time within which the applicant should have received such notice expired on 26 December 2011. Where an applicant for prior approval does not receive notification from the planning authority within this period, the apparatus benefits from 'permitted development' rights.
3. The authority sent an undated letter both requiring and refusing prior approval. That letter was received by the appellant in the post on 29 December 2011, outside the 56 day period. The authority sent a further letter on 24 January 2012 explaining that the letter was sent on, and should have been dated, 23 December 2011.

4. The authority also sent the undated letter by email to two email addresses purporting to be those of the appellant. The email was sent at 1632 hours on Friday 23 December 2011. The appellant says that one email address does not exist. The email was received at the other email address, that given on the appellant company's letter heading.
5. At first glance, this suggests that the decision requiring and refusing prior approval was received by the appellant within the 56 day period. However, the appellant raises two issues with regard to this.
6. Firstly the appellant says that the email copy of the letter should be disregarded since the application was not made electronically and no permission was given for electronic communication to be used in correspondence. However, the email address at which the letter was received was on the appellant company's letter seeking prior approval. It is now common practice, and indeed positively encouraged, for applications and decisions to be made electronically, and where an email address is given it is accepted practice that this can be used in communications. Section 329(1)(cc) of the Town and Country Planning Act 1990 permits the service of a notice using electronic communications where an address for service has been given, subject to condition and a number of exceptions, none of which include notices confirming that prior approval is required under Part 24 of the GPDO. Furthermore, although in the initial stages of this appeal some doubt was expressed about whether the email was received by the appellant, there is now no doubt that it was so received.
7. However, the appellant also says that this email enclosing the letter was received outside its business hours. Section 336(4A) of the Town and Country Planning Act 1990 provides that:

*Where—*

*(a) an electronic communication is used for the purpose of serving or giving a notice or other document on or to any person for the purposes of this Act, and*

*(b) the communication is received by that person outside that person's business hours,*

*it shall be taken to have been received on the next working day, and in this subsection, "working day" means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.*
8. The appellant says that its business hours are 0830 to 1630 on Mondays to Fridays. Both parties accept that the email was sent at 1632 on Friday 23 December 2011. This is outside these business hours. The next working day would have been Wednesday 28 December 2011, as the intervening days were Saturday, Sunday and two public holidays.
9. The council points to a previous appeal (APP/E5900/C/12/2170915) by the same appellant, relating to a different site, where the Inspector accepted that an electronic copy of the council's decision which arrived on a Friday evening, just prior to the weekend, was validly served within the specified time. However, the appellant's agent says that, at the time of that appeal, he had

been unaware of the above Section 336(4A), which had been inserted into the 1990 Act from March 31, 2003<sup>1</sup>. Had he been aware of this point and argued it in that appeal, the Inspector's conclusion may well have been different.

10. Section 336(4A) of the 1990 Act specifically refers to "*that person's business hours*". While many other businesses – and indeed, it would appear, the council – may still have been working at 1632 hours on a Friday afternoon, a 1700 or 1730 finish being common practice for office-based businesses, the Act is specific that it is the business hours of the person receiving the notice which is determinative of the matter. There is no evidence to suggest that the business hours of the appellant are different to those claimed in the appeal representations. In any event, many office-based businesses which normally operate until 1700 or 1730 hours on other weekdays do close earlier on a Friday afternoon, and this is particularly so when, as in this case, it is the last working day before the Christmas holiday. Accordingly the emailed letter from the council requiring and refusing prior approval was not received during the appellant's business hours on Friday 23 December 2011, and by virtue of Section 336(4A) of the 1990 Act is deemed to have been received on Wednesday 28 December 2011.
11. The notification of the council's decision to require and refuse prior approval was thus not received by the appellant until after the expiry of the 56 day period. The apparatus therefore benefits from the permitted development rights granted under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and the appeal on ground (c) succeeds. As the appeal is successful under this ground, the ground (a) appeal and the deemed planning application do not fall to be considered.

### **Formal decision**

12. I allow the appeal and direct that the enforcement notice be quashed.

*Peter Horridge*

INSPECTOR

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<sup>1</sup> by the Town and Country Planning (Electronic Communications) (England) Order 2003 (SI 2003/956), article 6



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# Appeal Decision

Site visit made on 7 March 2012

**by Ray Wright BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 15 May 2012**

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**Appeal Ref: APP/X5990/A/11/2165665**

**Outside 124 Horseferry Road, London SW1P 2TX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
  - The appeal is made by D Parkin (Infocus Public Networks Ltd) against the decision of the Council of the City of Westminster.
  - The application Ref 11/07499/TELCOM, dated 3 August 2011, was refused by notice dated 26 September 2011.
  - The development proposed is the installation of a 'public payphone'.
- 

## Decision

1. The appeal is allowed and approval is granted under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), in respect of development by a telecommunications code system operator for the siting and appearance of a public payphone on land outside 124 Horseferry Road, London SW1P 2TX in accordance with the terms of the application Ref 11/07499/TELCOM, dated 3 August 2011, and the plans/photographs submitted with it, (nos.(A) to (H) inclusive), subject to the following conditions:
  - 1) Upon installation the telephone kiosk shall be painted black and maintained in that colour for as long as it remains in situ.
  - 2) In the event that the payphone kiosk is no longer required for the purposes of telecommunication, or is made redundant, it shall be removed from the site and works to the pavement made good.

## Procedural Matter

2. The Council, in its decision letter, refers to Policy STRA 28 of the Westminster City Council Unitary Development Plan (UDP) which relates to Conservation Areas and the World Heritage site. The appeal site is not within a designated Conservation Area and therefore I have assessed this proposal against the other policies cited by the Council.

## Main Issues

3. The main issue in this case is the effect of the proposed payphone kiosk on the character and appearance of the area.

## **Reasons**

4. The proposed payphone would be enclosed by a kiosk principally of toughened glass within a steel frame, which would be painted black and have a site coverage, according to the appellant, of 1.48 square metres.
5. It would be sited close to the kerb of Horseferry Road. The Council and appellant refer to the pavement being between 8 and 11 metres wide at this point. Therefore the siting of the kiosk here, with its proposed positioning and dimensions, would have only a minimal effect on pedestrian movement in this area. I see no conflict with the principles set out in the recently adopted 'Westminster Way – Public realm strategy' Supplementary Planning Document in this respect.
6. While there are relatively few elements of street furniture in the immediate area, there are lampposts, trees and bollards on the pavement border. Also nearby, the Channel 4 offices at 124 Horseferry Road have a prominent, high profile entrance and this proposal must be assessed taking these existing features into account.
7. The siting proposed, between an existing tree and lamppost, would mean the kiosk would not be an isolated element or particularly visually prominent on this wide pavement. I agree with the appellant that the materials and form of the payphone kiosk would give it an appearance similar to bus shelters in the area. In consequence, it would not add unacceptably to street clutter or be visually harmful to the area.
8. Overall the siting and appearance of the proposed payphone would not adversely affect the character and appearance of the area. I therefore, find no conflict with the spacing or design requirements of Policy CS27 of the City of Westminster Core Strategy or Policies DES 1 or DES 7 of the UDP. In coming to a view on this proposal, I have had regard to the recently issued National Planning Policy Framework and am satisfied that the relevant local plan policies are not at odds with the new Framework.

## **Conclusion**

10. For the reasons given above and having regard to all the above matters, I conclude that the appeal should be allowed.

## **Conditions**

11. The Council has put forward three conditions should this appeal be allowed. The proposed black finish links in with other street furniture in the area and I consider a condition retaining this colour is reasonable in the interests of visual appearance. Should the payphone become redundant, it should be removed and the pavement area re-instated, therefore a condition to this effect is also necessary. This site is on a road frontage outside an office building and I do not consider the hours of building work for this payphone need to be controlled in the interests of amenity of residents.

*Ray Wright*

INSPECTOR



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# Appeal Decision

Site visit made on 7 February 2013

**by Tim Wood BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 6 March 2013**

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**Appeal Ref: APP/K5030/A/12/2185860**

**Land outside Irongate House, 22-30 Dukes Place, London EC3A 7HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
  - The appeal is made by Infocus Public Networks Ltd against the decision of the City of London Council.
  - The application Ref 12/00669/DPAR, dated 26 June 2012, was refused by notice dated 9 August 2012.
  - The development proposed is the installation of a public pay-phone.
- 

## Decision

1. The appeal is allowed and approval is granted under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 for the siting of a public pay-phone on Land outside Irongate House, 22-30 Dukes Place, London EC3A 7HX accordance with the terms of the application, Ref: 12/00669/DPAR, dated 26 June 2012 and the plans and documents submitted with it.

## Preliminary Matters

2. Telecommunications Code System operators have permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). They are, amongst other things, entitled to place and maintain telephone kiosks on the highway as permitted development subject to the relevant local planning authority (LPA) being given the opportunity to say whether its prior approval for the siting and appearance of the apparatus is required. The applicable provision is set out in Part 24 of the GPDO.
3. In 2010, there were two court cases relating to how applications for prior approval ought to be considered and covering the scope of prior approval applications relating to telephone kiosks. The first of these is *Murrell v SSCLG & Broadland District Council* (2010) ECWA Civ 1367. This case addressed, amongst other things, the scope of issues (siting and appearance) which could be considered and made it clear that these are not applications for planning permission. The court held that planning permission was already granted by the GPDO, subject to the prior approval relating to siting and appearance and referred to the prior approval process as being analogous to decisions on reserved matters. It is on this basis that I have dealt with the appeal and I have considered it on its merits in relation to siting and appearance in the specific location proposed.

4. The second case involved the appellant in the current appeal and this LPA: Infocus Public Networks Ltd v SSCLG & The Mayor and Commonality of the Citizens of London (2010) EWHC 3309 (Admin). In this case the judge referred extensively to the Murrell judgement and also dealt with the issue of advertising on pay-phones. He found that LPAs have sufficient powers to control advertisements, including discontinuance procedures and that, once the principle of this kind of development is acknowledged, the primary issues to be considered are the siting and appearance of the kiosk.
5. The judge considered that 'appearance (though apt to include anything attached to the surface of the kiosk) would ordinarily be thought to be the intrinsic appearance of the kiosk itself'. Whilst I accept that the kiosk has the potential to be altered in appearance by advertising material, the court case above has held that such material cannot be a 'predominant determinant' in relation to whether or not prior approval should be given. I have, therefore dealt with the appeal on that basis.

### **Main Issue**

6. The main issue in this appeal is the effect of the proposal on the character and appearance of the area.

### **Reasons**

7. The proposed telephone kiosk would be sited at the southern end of Houndsditch and Dukes Place on land forming part of the public highway. The public area accommodates planted landscaping, paving and the now disused stairs to the pedestrian subway. The proposal would be sited on an area which is currently paved, adjacent to the disused stairs.
8. The site falls within the Aldgate area identified in the Council's Core Strategy (CS) in Policy CS8 which seeks to, amongst other things, regenerate the amenities and environment of the area and enhance the public realm. In addition, Policy UTIL 4 of the Council's Unitary Development Plan (UDP) permits ground based apparatus which enhances or does not harm townscape and seeks to refuse such proposals if they materially harm the townscape. Furthermore, Policy ENV 7 of the UDP seeks to ensure that street furniture has due regard to the character of the City.
9. The Council accepts that, in its current layout, the proposal would not be as obtrusive as other locations, as it would be set against the existing wall to the stairs and close to the planted area. I agree that it would be unobtrusive within this location and not appear to clutter the street-scene.
10. In relation to its design, it would be simple and uncomplicated with a metal frame and glazed sides. Its relatively modest scale in comparison to the buildings nearby would mean that it would not dominate the area and its simple form would have no detrimental effect on the character of the area.
11. The Council refer to the Aldgate and Tower Area Strategy which envisages improvements to the public realm within this area. The Council states that the scheme is scheduled for highway layout approval in May 2013 and is due for implementation in early 2014. Within this context, I consider that the plain and simple design of the proposal would not prejudice the overall design and implementation of such an improvement scheme, the final layout of which has not yet been decided. Therefore, I find no conflict with the Policies set out



above nor with CS Policies CS10 and CS12 and that the siting and appearance of the kiosk in this location is acceptable. Therefore, the appeal succeeds.

12. The Council has asked that, in the event that the appeal is allowed, this should be the subject of a Unilateral Undertaking which would secure the removal of the kiosk in order to undertake an improvement scheme, and without seeking compensation. Notwithstanding the fact that no such Undertaking is before me, as the nature of this proposal is for the prior approval of siting and appearance for development which otherwise enjoys permitted development rights, I do not consider that such an Undertaking is necessary. In addition, I do not find that the proposed Undertaking is necessary in order to make the proposal acceptable.

*S T Wood*

INSPECTOR

# Appeal Decisions

Site visit made on 17 October 2014

**by Alan Boyland BEng(Hons) DipTP CEng MICE MIHT MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 December 2014**

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## CASE DETAILS

### All Appeals

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against refusals to grant approvals required under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995.
  - The appeals are made by Infocus Public Networks Ltd against the decisions of Swindon Borough Council.
  - The development proposed in each case is installation of a public payphone on the public highway by an electronic communications code operator.
  - The applications were all dated 10 June 2013 and refused by notice dated 2 August 2013.
- 

### **Appeal A - Ref: APP/U3935/A/13/2204403** **Outside 18-19 Commercial Road, Swindon, SN1 5NS**

- Application Ref S/TC/13/0770.
- 

### **Appeal B - Ref: APP/U3935/A/13/2204411** **Outside 18-19 Regent Street, Swindon, SN1 5JQ**

- Application Ref S/TC/13/0779.
- 

### **Appeal C - Ref: APP/U3935/A/13/2204414** **Outside 2-6 The Parade, Swindon, SN1 1BB**

- Application Ref S/TC/13/0785.
- 

### **Appeal D - Ref: APP/U3935/A/13/2204416** **Outside 19-21 Canal Walk, Swindon, SN1 1LD**

- Application Ref S/TC/13/0772.
- 

### **Appeal E - Ref: APP/U3935/A/13/2204422** **Outside Unit 1A, The Lock, Canal Walk, Swindon, SN1 1LD**

- Application Ref S/TC/13/0789.
- 

### **Appeal F - Ref: APP/U3935/A/13/2204424** **Outside 15 Regent Circus, Swindon, SN1 1PP**

- Application Ref S/TC/13/0781.
-

**Appeal G - Ref: APP/U3935/A/13/2204430**  
**Adjacent to 23 Canal Walk, Swindon, SN1 1LD**

- Application Ref S/TC/13/0790.
- 

**Appeal H - Ref: APP/U3935/A/13/2204431**  
**To rear of 12 Theatre Street, Swindon, SN1 1QN**

- Application Ref S/TC/13/0784.
- 

**Appeal I - Ref: APP/U3935/A/13/2204434**  
**Outside 53-55 The Parade, Swindon, SN1 1BB**

- Application Ref S/TC/13/0788.
- 

**Appeal J - Ref: APP/U3935/A/13/2204447**  
**Outside 32-34 Regent Street, Swindon, SN1 1JS**

- Application Ref S/TC/13/0773.
- 

**Appeal K - Ref: APP/U3935/A/13/2204456**  
**Outside 38 Havelock Street, Swindon, SN1 1SD**

- Application Ref S/TC/13/0782.
- 

**Appeal L - Ref: APP/U3935/A/13/2204462**  
**Adjacent to The Tri Centre, Two Buildings, New Bridge Square, Swindon, SN1 1HN**

- Application Ref S/TC/13/0778.
- 

**Appeal M - Ref: APP/U3935/A/13/2204463**  
**Outside 44-45 Bridge Street Swindon, SN1 1BL**

- Application Ref S/TC/13/0771.
- 

**Appeal N - Ref: APP/U3935/A/13/2204468**  
**Outside Wellington House, Wellington Street (opposite Haydon Street), Swindon, SN1 1EB**

- Application Ref S/TC/13/0768.
- 

## **Decisions**

### Appeals dismissed

1. The following appeals are **dismissed**:

- Appeal F - Outside 15 Regent Circus, Swindon, SN1 1PP (Application Ref S/TC/13/0781)
- Appeal G - Adjacent to 23 Canal Walk, Swindon, SN1 1LD (Application Ref S/TC/13/0790)

### Appeals allowed

2. The following appeals are allowed and approval is granted under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 for installation of a public payphone on the public highway by an electronic communications code operator at the following locations, in accordance with the applications as indicated, all dated 10 June 2013, and in accordance with the plans submitted with the respective applications:
  - Appeal A - Outside 18-19 Commercial Road, Swindon, SN1 5NS  
Application Ref S/TC/13/0770
  - Appeal B - Outside 18-19 Regent Street, Swindon, SN1 5JQ  
Application Ref S/TC/13/0779
  - Appeal C - Outside 2-6 The Parade, Swindon, SN1 1BB  
Application Ref S/TC/13/0785
  - Appeal D - Outside 19-21 Canal Walk, Swindon, SN1 1LD  
Application Ref S/TC/13/0772
  - Appeal E - Outside Unit 1A, The Lock, Canal Walk, Swindon, SN1 1LD  
Application Ref S/TC/13/0789
  - Appeal H - To rear of 12 Theatre Street, Swindon, SN1 1QN  
Application Ref S/TC/13/0784
  - Appeal I - Outside 53-55 The Parade, Swindon, SN1 1BB  
Application Ref S/TC/13/0788
  - Appeal J - Outside 32-34 Regent Street, Swindon, SN1 1JS  
Application Ref S/TC/13/0773
  - Appeal K - Outside 38 Havelock Street, Swindon, SN1 1SD  
Application Ref S/TC/13/0782
  - Appeal L - Adjacent to The Tri Centre, Two Buildings, New Bridge Square, Swindon, SN1 1HN  
Application Ref S/TC/13/0778
  - Appeal M - Outside 44-45 Bridge Street Swindon, SN1 1BL  
Application Ref S/TC/13/0771
3. Appeal N is allowed and approval is granted under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 for installation of a public payphone on the public highway by an electronic communications code operator outside Wellington House, Wellington Street (opposite Haydon Street), Swindon, SN1 1EB in accordance with the application, Ref S/TC/13/0768, dated 10 June 2013, in accordance with the plans submitted subject to the condition that, notwithstanding the submitted plans, the payphone hereby approved shall be set 0.5 metre from the edge of the adjacent carriageway.

### **Main Issues**

4. The appellant company in these cases is a telecommunications code operator. As such it benefits from deemed planning permission for the proposed payphones under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO), subject to prior approval by the local planning authority of their siting and appearance.

Accordingly the principle of the developments, including considerations such as the need for these particular facilities is not at issue in these appeals. However, approval of the siting and appearance was refused by the Council in all of these cases.

5. Accordingly, the main issues in all of these appeals are the effects of the siting and appearance of each proposed payphone on:
  - (i) the safety and convenience of users of the public highway; and
  - (ii) the character and appearance of the area and, in the case of appeal F (outside 15 Regent Circus) only, whether the proposed payphone would preserve the setting of the Grade II Listed Town Hall.

## **Reasons**

### Policy

6. The section on communications infrastructure in the *National Planning Policy Framework* (NPPF) mainly addresses radio and telecommunication masts and high speed broadband facilities. However, more generally it sets out a positive approach to such development and indicates that local planning authorities should not impose a ban on new telecommunications development in certain areas.
7. Saved policy DS6 of the adopted *Swindon Borough Local Plan 2011* (LP) sets out standards of design and amenity, and indicates that particular scrutiny will be given to proposals within the town centre. Saved policy ENV2 seeks to ensure that development affecting a listed building, amongst other things, at least preserves its setting. Saved policy ENV8 seeks appropriate provision to allow access for all, including disabled people. These policies predate the NPPF but nevertheless are broadly consistent with it, and I give them great weight.
8. The *Swindon Central Area Action Plan 2009* (CAAP) is an adopted Development Plan Document. Policy CAAP3 sets out, amongst other things, detailed criteria for the assessment of development proposals in terms of their effects on the public realm. Again this document predates the NPPF, but policy CAAP3 insofar as it relates to these proposals is also consistent with it. I therefore attach much weight to it.
9. *Inclusive Design Access for All*, a Supplementary Planning Document (SPD) under the Council's Local Development Framework (LDF), was adopted in 2011. While it does not carry the full weight of a development plan, it is a material consideration in the determination of planning applications. To my mind that extends to the matters that are the subjects of these appeals. The SPD sets out design principles in support of LP policy ENV8.

### Payphone design

10. The conclusions in this section apply generally to all the proposals except where indicated subsequently.
11. The design of the proposed payphone kiosk would be the same in each case. It would be a simple asymmetric 3-sided rectangular box having a footprint some 1.3m x 1.1m, with one side shortened and a slightly domed roof. The frame and main part of the roof would be of steel coated in black, with the sides and rear panels infilled with clear polycarbonate toughened glass leaving gaps at

- the bottom. The floor would be level with the existing pavement, and in the few instances where they would be situated adjacent to trafficked roads the opening would face away from the traffic.
12. It is undisputed that there is the potential for advertisements on one face of the kiosks through deemed consent. However, as both parties acknowledge, the Courts have held that local planning authorities have powers to secure discontinuance of such advertising and that this cannot be a 'predominant determinant' in the assessment of kiosks. I have considered the appearance of these proposed kiosks accordingly.
  13. I recognise that the NPPF seeks high quality design, as does LP policy DS6, but design quality has to be assessed with regard to context. I agree that the design could be described as functional and utilitarian. In some situations those might well be regarded as negative attributes. Equally they could suggest that the kiosks would be uncomplicated in style and unobtrusive in an urban setting predominantly comprising modern buildings of relatively unassuming designs. I consider the latter to apply in the case of most of these proposals. The light and airy style and simplicity of form of the proposed kiosks would in my view minimise their visual impact rather than seeking to make an intrusive visual statement. The similarity in form and style to existing phone kiosks, advertising stands and bus shelters near some of the proposed payphones would further help these to assimilate into the street scene.
  14. The payphone would be powered by solar panels integral to the roof, which would bring modest benefits in term of sustainability. Also they would be connected wirelessly via the mobile phone network. Accordingly, and more significantly for the matters under consideration here, there would be no overhead or underground cabling required, and the visual impacts of these would be avoided.
  15. The Council disputes the appellant's claim that the payphones need to be the size proposed in order to accommodate wheelchairs. It also points out that they do not fully comply with best practice guidance for telephones within a booth as set out in British Standard (BS) 8300:2009 due to insufficient floor area and because, it says, they are not accessible from the front and sides. The appellant does not deny that the BS standards would not be met, though its point that the recommended size would fall outside the limit for permitted development under the GPDO has no bearing on the substantive planning merits of these proposals.
  16. However, leaving aside the apparent contradiction between the Council's two points regarding size, it does not appear to deny that the payphones would be wheelchair-accessible. They would be accessible by most wheelchairs from the front and at an angle from one side, and in all cases there would be sufficient space around them for any necessary manoeuvring of wheelchairs.
  17. Again the parties disagree on whether or not other payphones provided in the area by the appellant's competitors can provide this facility, but that is essentially a matter of commercial competition and it not material to the planning issues in these appeals. However, I note that an existing wheelchair accessible payphone in The Parade is mounted on the outside of a kiosk, so users are fully exposed to the weather and have no privacy.

18. Clearly any additional structure in the highway could be said to add to clutter as the Council suggests but, in view of the nature of the proposed kiosks as discussed above, I conclude that in general the harm in this respect to the character and appearance of the area would be minimal. However, where necessary I consider further the particular effects of individual kiosks below.

#### Locations

19. All of the sites of the proposed payphones are in the town centre, mainly within the retail core. None is in a Conservation Area.

#### *Appeal A : Outside 18-19 Commercial Road, Swindon, SN1 5NS*

20. Commercial Road is on the fringe of the town centre. It is a busy, trafficked (one way) street with frontage development mainly comprising a mix of shops and premises offering financial and professional services. There was little pedestrian traffic at the time of my visit, and I have seen nothing to indicate that this was untypical.
21. The proposed kiosk would be 0.5m from the edge of the footway, allowing adequate clearance from the carriageway along which there is a prohibition of waiting at all times indicated by double yellow lines. Nearby is a street lamp standard which is painted black. Almost opposite are an existing payphone kiosk and a cable box, both at the kerbside.
22. The footway here is 4.7m wide, and there would remain a gap of in excess of 3m between the kiosk and the adjacent building frontage. I saw that pedestrians here generally walk closer to the building frontages. I consider it unlikely that many would walk along close to the kerb, and the path for any (including those with visual impairments) who do so is already obstructed by the adjacent lamppost and other street furniture at the kerbside along the street.
23. I conclude that this kiosk would not significantly harm the safety and convenience of highway users. My general conclusion regarding the effect on character and appearance applies in this instance.

#### *Appeal B : Outside 18-19 Regent Street, Swindon, SN1 5JQ*

#### *Appeal D : Outside 19-21 Canal Walk, Swindon, SN1 1LD*

#### *Appeal E : Outside Unit 1A, The Lock, Canal Walk, Swindon, SN1 1LD*

#### *Appeal I : Outside 53-55 The Parade, Swindon, SN1 1BB*

#### *Appeal J : Outside 32-34 Regent Street, Swindon, SN1 1JS*

#### *Appeal K : Outside 38 Havelock Street, Swindon, SN1 1SD*

#### *Appeal M : Outside 44-45 Bridge Street Swindon, SN1 1BL*

24. These locations are all in pedestrianised 'streets'. Most are within the modern shopping precinct, but Havelock Street and Bridge Street are older streets now also pedestrianised. They carry high pedestrian flows. In each of the streets the outer parts, closest to the frontages, are largely free from obstructions, and I observed that most pedestrians walking along these streets, particularly those clearly 'window shopping' as they went, did so here. These parts also provide routes for service vehicles.
25. The central parts of the streets are also largely open, but they do contain many items of street furniture including seats, benches, litter bins, lamp posts and

existing phone kiosks, as well as trees, raised planters, sculptures and advertising stands. I saw that pedestrians can, and some do, walk longitudinally along the streets here, weaving their way between the obstructions. However, most use the central areas only to cross from one side to the other.

26. On my visits I identified only a small number of people with visual or physical impairments. These largely followed similar paths to other pedestrians.
27. The proposed payphone kiosks would be in the central parts, well related to other features so as to minimise, in conjunction with their relatively small footprints, the additional obstruction to pedestrian movements. I conclude that these kiosks would not significantly harm the safety and convenience of highway users. My general conclusion regarding the effects on character and appearance also applies in these instances.

*Appeal C : Outside 2-6 The Parade, Swindon, SN1 1BB*

28. This kiosk would be in a small pedestrianised piazza. This is on one of the main routes into the main shopping precinct and I saw that it carries particularly high levels of pedestrian traffic passing through. The piazza is mainly open, with just a small number of seats in the central area and two pairs of kiosks to one side. Three of these kiosks are conventional payphones and one has an external ATM on one side and an external payphone on another.
29. I saw that pedestrian routes are more varied than in the linear 'streets', but principal desire line is between the underpass and The Parade along the building frontages on the north-east side. The existing permanent features cause little impediment to free flow, though building works on the north-east side were encroaching a little at the time of my visit. The proposed kiosk would be in the gap between two bench seats, still leaving space for pedestrians to pass to either side between it and the seats. In the light of this and of the proposed location in relation to the pattern of movements I observed, I consider that the kiosk would cause little obstruction.
30. I conclude that this kiosk would not significantly harm the safety and convenience of highway users. My general conclusion regarding the effects on character and appearance again applies here.

*Appeal F : Outside 15 Regent Circus, Swindon, SN1 1PP*

31. This site is in an open area around the west (main) and north (secondary) sides of the old Town Hall, a Grade II Listed Building. This dates from the late 19<sup>th</sup> century and is a typical public building of its period in red brick with stone string courses and door and window features. The space around it gives a pleasant visual separation from the mainly nondescript mid 20<sup>th</sup> century buildings surrounding it. The Council advises that this area has in recent times been decluttered, enhanced and landscaped. I saw that it provides a fitting setting for the listed building and consider that it makes an important contribution to the designated heritage asset.
32. The proposed payphone kiosk would be in the wide (10.7m here) footway on the far side of a cul-de-sac roadway running along the north (secondary) frontage of the Town Hall providing access to loading bays and 'blue badge' parking. It would be in line with several trees, a cycle rack and a post box. It



did not appear to me to lie on any main pedestrian desire lines and so would not significantly impede movements. The Council expresses concern that it would be difficult for people with disabilities to alight from vehicles next to the kiosk. However, this side of the road is a loading bay whereas 'blue badge' parking is available on the opposite side adjacent to the Town Hall. In any event, while the distance between it and the kerb is not dimensioned on the submitted plans, it scales at over 2m which in my view would be adequate to avoid significant problems in this respect.

33. The cycle racks are relatively inconspicuous, being low and set between trees and shaded by them. There is a fixed information/direction board a little further up but, while it is of similar height to a phone kiosk, it has a much smaller footprint and relates more to the pedestrian routes and surrounding buildings than to the Town Hall. The proposed kiosk on the other hand would stand more alone and be taller and more prominent than the existing features. In my view it would detract from the openness of this part of the setting of the Town Hall and cause substantial harm to the significance of the heritage asset.
34. I conclude therefore that that while this kiosk would not significantly harm the safety and convenience highway users, it would be harmful to the character and appearance of the area and would fail to preserve the setting of the listed building.

*Appeal G : Adjacent to 23 Canal Walk, Swindon, SN1 1LD*

35. This location is within a large open area known as Wharf Green. It is identified in the CAAP as a primary space and a multi-purpose urban square providing a focal point for events and congregations, including a large TV screen mounted on an adjacent building. Clearly openness is an important attribute of the space, in both visual and functional terms.
36. The proposed payphone kiosk would be located in line with two low benches and near a recently-planted tree. It would not in my judgement materially impede day-to-day pedestrian routes through the area, but it would be an obstruction to movement on occasions when large gatherings take place here. Moreover it would be visually prominent as an intrusion into the open area and would introduce a visual 'shadow' within which views of events occurring live or being shown on the TV screen would be blocked.
37. I conclude that this kiosk would be harmful to the safety and convenience of highway users and would be harmful to the character and appearance of the area.

*Appeal H : To rear of 12 Theatre Street, Swindon, SN1 1QN*

38. This location is actually on the footway of Princes Street, a major route around the town centre. The footway here is some 6m wide, and it is built out further at a pelican crossing near the site of the proposed payphone kiosk. I saw that the railings shown on the photo submitted by the appellant and referred to by the Council have now been removed, but I observed that pedestrians still tend to walk diagonally across the footway to and from the crossing rather than turning towards the position of the kiosk. By chance, on my visit I saw a long cane user using the crossing. Rather than following the kerb as the Council suggests he also headed for the back of the footway where he followed the

building frontages to Regent Circus. Accordingly I do not share the Council's view that the kiosk would be a barrier to pedestrian movement.

39. A kiosk here should not impede cyclists as the Council suggests. There is no designated cycle track here so, as I understand it, lawfully cyclists should be using the road rather than the footway. I note that there are proposals to convert the crossing to a toucan crossing, but it seems to me that there is ample space to accommodate provision for cyclists in association with this. In the event of it nevertheless being necessary to relocate the kiosk for this purpose, the lack of cables for power or telephony and the proposed fixing of the kiosk to the existing surfacing rather than setting it into the ground would render this relatively straightforward.
40. The kiosk would be close to the kerb, but it would not pose an obstruction to traffic as stand-out for the crossing forces vehicles away from the kerb at this point, and the 'layby' thus created has double yellow lines and is within the zig-zag zone on the approach to the crossing.
41. I conclude that this kiosk would not significantly harm the safety and convenience of highway users. My general conclusion regarding the effects on character and appearance applies here.

*Appeal L : Adjacent to The Tri Centre, Two Buildings, New Bridge Square, Swindon, SN1 1HN*

42. This proposed kiosk would be located outside the main shopping area, on the opposite side of Fleming Way, in an area of mainly office development. The site is on a main pedestrian route between the shopping centre, via a subway from the Parade, and the bus and rail stations as well as the office and other development north of Fleming Way.
43. The kiosk would be at the edge of a small open area, adjacent to a wall containing an area of landscaping that rises towards Fleming Way. I saw that most pedestrians go diagonally across to Newbridge Square or straight ahead towards the bus station. The proposed kiosk would not impinge on these desire lines. A few turn to go up the ramp to the bus stops in Fleming Way (most use the shorter route via the steps), but the post box, recycling bins and lamp post already situated against the wall near the kiosk site already force the to take a slightly wider route so the kiosk would not affect them significantly.
44. While the phone kiosk would introduce a new visual element here, the proximity of the wall and the presence of the post box, recycling bins and lamp post close by would mitigate its impact.
45. I conclude that this kiosk would not significantly harm the safety and convenience of highway users. My general conclusion regarding the effects on character and appearance applies again here.

*Appeal N : Outside Wellington House, Wellington Street (opposite Haydon Street), Swindon, SN1 1EB*

46. Wellington Street is a trafficked (one way) street near the rail station to which it forms a key pedestrian route though flows were low at the off-peak time of my visit. The frontage development is a mix of commercial and residential; Wellington House is residential with the lowest level of accommodation

apparently being at about normal first floor level and a largely blank façade below this.

47. The footway here is some 5.5m wide, and the proposed kiosk would be close to the kerbside, leaving ample room for pedestrians to pass. It would obstruct the path for any visually impaired people following the kerb rather than the building edge but, while there are no other obstructions on this side of this road, there are many instances of lamp posts and bollards close to the road edge (for example on the opposite side of Wellington Street nearby) so such obstructions would not be unexpected.
48. There is no direct pedestrian access to Wellington House from the street, double yellow lines on the road here denote a prohibition of parking at any time, and the kiosk would be opposite a road junction. Therefore there should be no issue with access to parked vehicles. In the interests of safety it would be necessary for the kiosk to be no closer than 0.5m from the kerb. The submitted plans do not specify a distance in this instance, but it scales at less than this. However, the necessary separation could be secured through a planning condition. Subject to such a condition I conclude that the kiosk would not significantly harm the safety and convenience of highway users.
49. This side of the street is somewhat featureless, and while a payphone kiosk would introduce a significant new visual element I do not consider that it would amount to clutter. My general conclusion regarding the effects on character and appearance applies again here.

## Conclusions

50. The Council's refusal of all 14 of the applications to which these appeals relate, in a variety of locations and situations, could be viewed as tantamount to a blanket ban on such new payphone kiosks in the area, contrary to para 44 of the NPPF. However, the authority has rightly avoided consideration of the need for the proposed kiosks, and its reasons for refusal relate only to the matters for which prior approval is required, namely siting and appearance.
51. In all but two of these cases I have found no material harm in respect of the main issues, which address those two matters. In the case of appeal F (outside 15 Regent Circus) there would be harm in respect of the second issue only. In appeal G (adjacent to 23 Canal Walk) I have found harm in respect of both main issues.
52. In those cases where there would be no material harm to the safety and convenience of users of the public highway (issue (i)), and in the light of my conclusion with regard to the accessibility of all of the proposed kiosks by wheelchair users, I conclude that the proposals would comply with LP policies ENV8 (access for all) and DS6 (design strategy) criterion (f) regarding suitable access. The proposed kiosk adjacent to 23 Canal Walk (appeal G) would not comply with these.
53. Similarly, none of the proposed payphones would materially prejudice the delivery of new and improved primary routes in central Swindon as set out in the CAAP, or the provision of safe and suitable routes for everyone in accordance with design principle 2 in the *Inclusive Design Access for All* SPD. However, the proposed kiosk adjacent to 23 Canal Walk (appeal G) would prejudice the delivery of the primary space at Wharf Green, contrary to policy

- CAAP3. It would also conflict with design principle 3 of the SPD on inclusive spaces.
54. In the cases where there would be no material harm to the character and appearance of the area (issue (ii)) the proposed kiosks would accord with criterion (a) of LP policy DS6, which requires development to be well laid out and sympathetic to the local context, character and site coverage. The proposed kiosk outside 15 Regent Circus (appeal F) would not comply with this. Moreover, the harm to the setting of the listed Town Hall in that case would also be contrary to LP policy ENV2 (development affecting listed buildings).
55. In those appeals that are allowed the deemed planning permission for the proposed payphones under Part 24 of Schedule 2 to the GPDO, subject to prior approval of their siting and appearance, is also subject to conditions set out in the GPDO. In the case of appeal N (Outside Wellington House, Wellington Street) an additional condition would be necessary as indicated above.
56. For the reasons given above I conclude that appeals F (outside 15 Regent Circus ) and G (adjacent to 23 Canal Walk) should be dismissed but that the remaining 12 appeals should succeed.

*Alan Boyland*

Inspector



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# Appeal Decision

Site visit made on 27 March 2013

**by G Powys Jones MSc FRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11 April 2013**

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**Appeal Ref: APP/X5210/A/12/2187076**

**North of Endeavour House, 189 Shaftesbury Avenue, London WC2H 8JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended. (GPDO).
  - The appeal is made by Infocus Public Networks Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2012/3807/P, dated 18 July 2012, was refused by notice dated 4 September 2012.
  - The development proposed is the installation of a public payphone.
- 

## Decision

1. The appeal is allowed and approval is granted under the provisions of Part 24 of Schedule 2 to the GPDO, in respect of development by Infocus Public Networks Ltd, for the siting & appearance of a public payphone on land to the north of Endeavour House, 189 Shaftesbury Avenue, London WC2H 8JR in accordance with the terms of the application Ref 2012/3807/P, dated 18 July 2012, subject to the following condition:

*The development hereby permitted shall be carried out in accordance with the following approved plans and documents: the OS based site & location plans, the annotated photograph showing the proposed position of the payphone, and the unreferenced drawing of the proposed payphone.*

## Preliminary and procedural matters

2. In the appeal documentation, so as to avoid confusion, the appellant has adopted the address for the proposal used by the Council in its decision notice. I shall do likewise. However, as clearly shown on the submitted plans and photographs, the proposed payphone would be sited in St Giles High Street, albeit north of Endeavour House.
  3. As a telecommunication code systems operator the appellant benefits from deemed planning permission granted under the terms of the GPDO for the proposed payphone, subject to applying for a determination from the local planning authority as to whether the prior approval of the authority would be required to its siting and appearance. Such an application was made, but the Council deemed that prior approval would be needed, and contemporaneously
-

refused to approve the proposed siting and appearance on the basis of the information supplied at that stage.

### **Main Issue**

4. The main issue is the effect of the siting and appearance of the proposed payphone on the street scene.

### **Reasons**

5. The payphone would be sited between trees, close to the edge of the wide pavement in this part of St Giles High Street, next to a bus stand. The site was occupied by a large wheelie bin when I visited, one of five such bins parked next to one another, forming part of the Council's local recycling centre.
6. I consider the payphone to be well designed, with a light steel frame and toughened clear polycarbonate glass, exuding an impression of airiness. It would sit relatively unobtrusively in its visual context, particularly having regard to its siting beneath the tree canopy, which softens the distinctly urban street scene, particularly during the seasons when in full leaf.
7. The payphone would have far less of a visual impact than the Council's recycling centre. Apart from the wheelie bins, the locality does not display any more street furniture than normal in central London, and the payphone would be seamlessly absorbed into the street scene. I do not therefore share the Council's view that it 'would unacceptably add to a cluttered agglomeration of street furniture'.
8. The applicant has produced the necessary evidence to justify the development in the terms of paragraph 45 of the National Planning Policy Framework (the Framework) with particular reference to siting and appearance, and most of the policy advice in this paragraph is directed to other forms of telecommunications development. As paragraph 46 of the Framework provides, the need for the payphone is not a material consideration.
9. I note the views expressed on issues related to crime and anti-social behaviour. However, as a colleague said in a recent planning appeal to which my attention has been drawn, (*Ref APP/X5210/A/12/2178982*), the GDPO and the Framework establish that, in planning terms, payphones, in principle are an acceptable form of development. I share his view, but in any event, I am far from convinced that the proposed siting or appearance of the payphone, in themselves, would serve to encourage or increase crime or anti-social behaviour in the locality.
10. I conclude that the proposed siting and appearance of the proposed payphone would be acceptable, and the visual qualities of the street scene would not be harmed. Accordingly I find no conflict with those provisions of policies CS14 & DP24 of Camden's Local Development Framework: Core Strategy and Development Policies (CS) directed to promoting high quality places and design.
11. A condition is imposed for the avoidance of doubt and in the interests of proper planning to ensure that the development is carried out in accordance with the plans and documentation considered by the Council and myself.

12.No other matter raised in the representations outweighs the considerations that led me to this conclusion.

*G Powys Jones*

INSPECTOR



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# Appeal Decision

Site visit made on 27 March 2013

**by G Powys Jones MSc FRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11 April 2013**

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**Appeal Ref: APP/X5210/A/12/2187079**

**Outside 148-149 Holborn, London EC1N 2NS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO).
  - The appeal is made by Infocus Public Networks Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2012/3469/P, dated 29 June 2012, was refused by notice dated 20 August 2012.
  - The development proposed is the installation of a public payphone.
- 

## Decision

1. The appeal is allowed and approval is granted under the provisions of Part 24 of Schedule 2 to the GPDO in respect of development by Infocus Public Networks Ltd for the siting & appearance of a public payphone on land outside 148-149 Holborn, London EC1N 2NS in accordance with the terms of the application Ref 2012/3469/P, dated 29 June 2012, subject to the following condition:

*The development hereby permitted shall be carried out in accordance with the following approved plans and documents: the OS based site & location plans, the annotated photograph showing the proposed position of the payphone, and the unreferenced drawing of the proposed payphone.*

## Preliminary and procedural matters

2. As an electronic communications code operator the appellant benefits from deemed planning permission granted under the terms of the GPDO for the proposed payphone, subject to applying for a determination from the local planning authority for a determination as to whether the prior approval of the authority would be required to its siting and appearance. Such an application was made, but the Council deemed that prior approval would be needed and it refused to approve the proposed siting and appearance on the basis of the information supplied at that stage.

## Main Issues

3. The main issues are the effect of the siting and appearance of the payphone on the street scene, and on pedestrian safety and convenience.
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## Reasons

4. The payphone would be sited back-to-back with an existing telephone box, not far from a set of steps serving Chancery Lane tube station. A small moveable newspaper stand rests against the steps' safety railings. A newspaper kiosk is sited to the east well away from the station's steps, although it was shut at the time of my afternoon visit. A small information panel erected by Transport for London is also in evidence, between the kiosk and the steps, and there is a modest amount of traffic signage/lights. A City of London plaque sits on a plinth erected to the west, on the junction of Holborn and Grays Inn Road.
5. The payphone is well designed, with a light steel frame and toughened clear polycarbonate glass, and exudes an impression of airiness. It would hardly be noticeable when approaching along the footway from the east, since the existing telephone box would largely screen it. From the west, and from the south on the opposite side of the road, given the lightness of its appearance, the payphone would be perceived as an acceptably designed addition to the existing telephone box.
6. The immediate area is not unusually or excessively cluttered with street furniture, and includes items normally associated with the entrances to London's tube stations. The addition of the proposed payphone would not, in my view, result in the visual congestion feared by the Council. Although not specifically cited as a reason for refusal, the payphone would not harm the setting of any of the listed buildings in the vicinity referred to by the Council.
7. During my visit, I watched the flow of, and routes taken by pedestrians along the footway, including those entering and exiting the tube station. Whilst I fully understand the Council's concerns, pedestrians rarely used the land immediately behind the existing telephone box upon which the proposed payphone would stand. This very restricted area did not appear to be on a clearly established pedestrian desire line, largely because of the presence of the existing telephone box.
8. The proposed payphone would marginally reduce the amount of space available to pedestrians, but sufficient space would remain in the remainder of the footway, which is almost 10m wide at this point, to ensure that the safety and convenience of pedestrians would not be put at risk.
9. The applicant has produced the necessary evidence to justify the development in the terms of paragraph 45 of the National Planning Policy Framework (the Framework) with particular reference to siting and appearance, and most of the policy advice in this paragraph is directed to other forms of telecommunications development. As paragraph 46 of the Framework provides, the need for the payphone is not a material consideration.
10. I note the views expressed on issues related to crime and anti-social behaviour. However, as a colleague said in a recent planning appeal to which my attention has been drawn, (*Ref APP/X5210/A/12/2178982*) the GDPO and the Framework establish that, in planning terms, payphones, in principle are an acceptable form of development. I share his view, but in any event, I am far from convinced that the proposed siting or appearance of the payphone, in

themselves, would serve to encourage or increase crime or anti-social behaviour in the locality.

11. I conclude that the proposed siting and appearance of the proposed payphone would be acceptable since the visual qualities of the street scene would not be harmed, and the safety and convenience of pedestrians would not be put at risk. Accordingly, I find no conflict with those provisions of policies CS14 & DP24 of Camden's Local Development Framework: Core Strategy and Development Policies (CS) directed to promoting high quality places and design. Nor is there a conflict with those provisions of CS policy DP21, setting out the Council's expectations that works affecting highways should avoid harm to highway safety, not hinder pedestrian movement and avoid unnecessary street clutter.
12. A condition is imposed for the avoidance of doubt and in the interests of proper planning to ensure that the development is carried out in accordance with the plans and documentation considered by the Council and myself. The second condition suggested by the Council is unnecessary, since it is a condition imposed on the development permitted under the terms of the GPDO.
13. No other matter raised in the representations outweighs the considerations that led me to my conclusions.

*G Powys Jones*

INSPECTOR

## Appendix C

- 9.21 In all circumstances, overlooking of the recess should be maximised where possible by considering replacing the emergency exit door with an all glazed or top half glazed door with thick laminated glass. An open weave grille can be installed internally for additional security. Further guidance is contained within chapter 7 Shopfronts, in this guidance.

**Walls and fences**

- 9.22 Careful consideration should be given to walls and fences, or other boundary treatments. If boundary walls are used in certain locations, where anti-social behaviour is identified as a problem, they should not have a flat horizontal top, which is inviting to sit on. Angled tops could be used to avoid the wall being used as an informal seat. Further guidance is contained within chapter 6 Landscape design and trees, in this guidance.

**Public realm and street furniture**

**Street furniture**

A collective term for objects and pieces of equipment installed on streets and roads, including benches, bollards, post boxes, phone boxes, streetlamps, traffic lights, traffic signs, bus stops etc

- 9.23 Well designed street furniture and public art in streets and public places can contribute to a safe and distinctive urban environment. Street furniture should not obstruct pedestrian views or movement or be positioned to encourage anti social behaviour.
- 9.24 All features within public space and elements of street furniture should be designed to make a positive contribution to community safety and discourage anti-social behaviour. Careful consideration should therefore be given to their location and detailed design.

**Cash machine boxes**

- 9.25 Cash Machine boxes are stand-alone structures located on the footway, which house Automatic Teller Machines (ATMs). We will refuse the siting of these in areas of high crime. Permission will only be granted where the police designing out crime advisors believe that it would not act encourage crime or interrupt important sightlines. Where they are allowed, the design should ensure maximum visibility into and through the proposed structure. Please see chapter 7 Shopfronts, in this guidance for further information.

**Telephone boxes**

- 9.26 Although we have only limited and discretionary control over the siting and appearance of public call boxes, we are consulted on the siting of new telephone boxes on the public highway. In all cases we will request that the provider demonstrates the need for the siting of the new facility. In certain areas of the Borough, public call boxes can be seen as crime generators and in these areas we will consider whether the proposed location will have an impact on crime levels.

- 9.27 All new phone boxes should have a limited impact on the sightlines of the footway. The size of the box or other supporting structure that the phone box is in should be minimised to limit its impact on the streetscene and to decrease the opportunities for crime and anti-social behaviour. There should be a minimum footway width of 2m adjacent to the phone box. Designs which are dominated by advertising space are not acceptable. Any advertising should not be placed where it significantly reduces natural surveillance or CCTV coverage of, or into, the call box. Designs should seek to maximise views into and through the phone box and along the footway.

### Lighting

- 9.28 Good lighting can have a number of benefits, including:
- enhancing the built environment by increasing the potential for natural surveillance;
  - reducing the opportunity for criminal activity to take place;
  - where crime does occur, increasing the likelihood of it being challenged and/or reported; and
  - ensuring that CCTV footage is of sufficient quality to assist in the detection of crime.
- 9.29 Where used inappropriately, however, it can result in light pollution which is intrusive and can have an impact on residential amenity. It can also result in pooling of light which means that pedestrians walk from areas well lit to those with little light. This impacts on their perceptions of their own safety and can influence the way in which they use their environment.
- 9.30 We will seek to encourage good quality lighting provision in all developments to use metal halide lamps or the equivalent and high quality refractors where appropriate to maximise the perception of colour and increase the controllability of where light falls. This will encourage uniformity of light provision. Uniformity of light is very important in people's perception of how well an environment is lit and has a greater impact than absolute lighting levels. It is also necessary for people with sight impairments, whose eyes adjust to different light levels more slowly than fully sighted people. Lighting should be designed so as to minimise glare and reflection problems.

#### **Metal halide lamp**

A type of light source used in a variety of applications which produces a large amount of quality light without being a huge, bulky light bulb.

- 9.31 Where lighting is provided to increase on-site security, this should not have an adverse effect on the perception of lighting levels in areas adjacent to the site and where possible should enhance this provision.
- 9.32 Mounting of lighting should be considered to ensure that it is resistant to vandalism and does not act as a climbing aid.

## Appendix D

- 8.3 This section includes guidance for the design and layout of streets and public spaces including:
- quality of the public realm;
  - ease of pedestrian movement;
  - street furniture;
  - footpaths that are not alongside roads,
  - our approach to shared surfaces; and
  - information on the Legible London scheme.

### **When does this apply?**

- 8.4 This guidance applies to planning applications that involve a change in the way that pedestrians access a site or move in and around the site, and also applications that change vehicle movements in a way that will affect pedestrians.
- 8.5 It should guide arrangements for pedestrians that arrive by car, public transport or bicycle, as well as those arriving on foot.

### **The design and layout of streets and public spaces**

#### **CAMDEN STREETSCAPE DESIGN MANUAL (2005)**

Provides useful guidance for those who are planning the design and layout of streets and public spaces. The manual sets out the Council's detailed expectations for street works in the borough, addressing issues such as responding to local character, footway design and materials, and street furniture.

### **General principles**

- 8.6 We will seek improvements to streets and spaces to ensure good quality access and circulation arrangements for all. This includes improvement to existing routes and footways that will serve the development. Key considerations informing the design streets and public spaces include the following:
- Camden Streetscape Design Manual;
  - ensuring the safety of vulnerable road users, including children, elderly people and people with mobility difficulties, sight impairments, and other disabilities;
  - maximising pedestrian accessibility and minimising journey times;
  - providing stretches of continuous public footways without public highway crossings;
  - linking to, maintaining, extending and improving the network of pedestrian pathways;
  - maximising pedestrian safety by providing adequate lighting and overlooking from adjacent buildings;
  - taking account of surrounding context and character of area

- providing a high quality environment in terms of appearance, design and construction, paying attention to Conservation Areas, and using traditional materials (such as natural stone or granite setts) where appropriate,
- use of paving surfaces which enhance ease of movement for vulnerable road users; and
- avoiding street clutter and minimising the risk of pedestrian routes being obstructed or narrowed, e.g. by pavement parking or by street furniture.

### **Ensuring high quality public spaces**

- 8.7 The Core Strategy seeks to ensure that new development contributes to the creation of attractive, clean and well-maintained public places (see Policy CS14). It is essential that new streets and public spaces integrate with surrounding spaces and links, and are designed and built to a high standard, including through the use of good quality materials. The government's Manual for Streets provides useful guidance on achieving successful public spaces, and Camden's Streetscape Design Manual sets out guidance on how to ensure works contribute to local character and distinctiveness.
- 8.8 Where developments generate the need for works to road, highways and adopted public spaces, these should be funded by the developer (see CPG8 Planning obligations for transport provision) but carried out by the council in order to ensure consistent high standards of implementation and materials in streets and public spaces. In line with policy DP21 of the Camden Development Policies, all new pedestrian areas and footpaths are required to be constructed to a standard that is considered appropriate for adoption by the relevant Highway Authority.

#### **Street clutter**

Excessive use of road signs, bollards and lampposts leading to an untidy street environment.

### **Ease of pedestrian movement**

- 8.9 Footways should be wide enough for two people using wheelchairs, or prams, to pass each other. We seek to maximise the width of footways wherever possible. The Camden Streetscape Design Manual sets out minimum widths for different kinds of footways.

#### **Wayfinding**

The process of navigating or defining a path through an environment.

- 8.10 Policy DP21 of the Camden Development Policies document states that we will expect works affecting highways to avoid unnecessary street clutter. Design of footways should not include projections into the footway, unnecessary and cluttered street furniture or other obstructions. Any minimum standards for footway widths should not be used to justify the provision of unnecessary street clutter or reduction in footway width.



The Council will generally resist proposals that involve the opening of doors into footways as they raise safety concerns, and can obstruct pedestrians.

- 8.11 Footways should be designed with frequent and convenient road crossing points for pedestrians. The detailed design of edges, crossings and gradients should take into account the need for the maintenance of minimum pavement widths, ease of movement and wayfinding, and appropriate measures for those with visual impairments and mobility difficulties. The Camden Streetscape Design Manual and DETR 'Guidance on the use of Tactile Paving Surfaces 1998' provide useful guidance which should be used to inform the design of edges, crossings and gradients.

#### **Tables and chairs**

- 8.12 The Council will sometimes licence the placing of tables and chairs on the footway in association with adjacent cafes and similar uses. The area where tables and chairs may be placed must be designated and must not interrupt the area of footway for pedestrian movement. The licence will specify permitted hours, after which the removal of tables and chairs will generally be required. Further guidance on tables and chairs is provided in CPG5 Town centres, retail and employment.

#### **Lighting, signage and street furniture**

- 8.13 Footways should be well lit and well signed, but with care to avoid light pollution and obstructions. Wherever possible, lighting and signs should be placed on buildings or existing street furniture to minimise footway clutter. Please also see paragraphs 7.17 to 7.22 on Legible London below.
- 8.14 The installation of seating, bus shelters, litter bins and cycle parking is encouraged in association with new footways provided that it will improve the pedestrian environment, and the use of sustainable modes of transport. However, they should be positioned so they do not interrupt the minimum area of footway designated for pedestrians. If possible, cycle stands (and cycles parked at them) should be wholly clear of the footway.

#### **Footpaths that are not alongside roads**

- 8.15 Footpaths independent of roads can be beneficial in terms of directly following the most direct routes for pedestrians and creating pleasant environments. However, great care is needed to provide security for pedestrians and discourage anti-social behaviour. Designs should consider:
- lighting;
  - natural overlooking from adjacent buildings;
  - maintaining visibility over the full stretch of the route between roads;
  - the appropriateness of planting; and

- avoiding features that could conceal assailants.

### **Pedestrian and vehicle shared surfaces**

- 8.16 Policy DP17 of the Camden Development Policies states that we will seek shared surfaces in appropriate circumstances and where it will be safe for all users. Safety and accessibility for all will be examined thoroughly in any shared surface proposal.

#### **Shared surface**

A highway where distinction between pedestrian and vehicle areas has been removed or reduced and sends a strong signal that the whole of the highway space is open equally to all users.

- 8.17 Where shared surfaces are used, a combination of other traffic management measures should also be used to reduce vehicle speeds to 5-10 mph. Measures to reduce vehicle speeds should not limit visibility for pedestrians and vehicles, and must not prejudice safety. Further measures to promote safety include
- the removal of parked vehicles from the shared surface to avoid potential conflicts with children at play; and
  - provision of clear routes and surface textures to assist orientation of people with visual impairments.

### **Legible London wayfinding signage**

- 8.18 Legible London was set up by Transport for London (TfL) in partnership with London boroughs to create a standard pedestrian wayfinding and signage system for central and inner London. It is a map-based system which gives users a good understanding of the surrounding area and encourages them to choose their own route to a specific destination.
- 8.19 Legible London signage is supported in Camden's Core Strategy Policy CS11 as a key element of Camden's approach to promoting walking in the borough. It has also been adopted by other London boroughs and thus provides consistent pedestrian signage across central and inner London.
- 8.20 The Legible London standard has been adopted by Camden and all new signs on the public highway should be of a Legible London type. The Council will also seek Legible London signage on private land, where appropriate.
- 8.21 TfL's Legible London programme currently covers the Central London area and we will extend the Legible London scheme throughout the borough, prioritising key destinations and busier areas, such as our town centres (see Core Strategy Policy CS11 paragraph 11.11). We will seek on-site provision of Legible London signage in these areas as appropriate, and on developments that contain:
- key routes to or through the site;

- decision points, arrival points and places where pedestrians are likely to gather;
  - complex spaces and areas outside civic spaces and public buildings.
- 8.22 Where relevant, sign types and quantities should tie into any relevant area strategies produced by the Council, in partnership with TfL.
- 8.23 As well as on-site provision, developments will also be expected to provide contributions to the Legible London in other locations, where appropriate, in order to mitigate the increased level of activity their development generates (see transport section of CPG8 Planning obligations).

### **Highway authority approval**

- 8.24 Works to streets and public spaces also require separate approval from the relevant highway authority (usually Camden council). You are advised to contact our Highways department as soon as possible to discuss the approach to and proposed works to streets and public spaces.

### **Further information**

- 8.25 In addition to Camden's Core Strategy, Development Policies, the Camden Streetscape Design Manual and other sections in this guidance, reference should be made to the following guidance:
- Manual for Streets, DfT, 2007
  - Residential roads and footpaths: layout considerations – DfT Design bulletin 32 (2nd edition), HMSO 1992
  - Guidance on the use of tactile paving surfaces, DETR 1998 - this can be viewed on the 'transport infrastructure, pedestrians, wheelchair and scooter users' pages in the 'access for disabled people' section of: [www.dft.gov.uk](http://www.dft.gov.uk)

## Appendix E

10

## Street furniture and street lighting





## Chapter aims

- Describe how street furniture that offers amenity to pedestrians is to be encouraged, but clutter avoided.
- Comment on street furniture and lighting design relating to context.
- Explain that lighting should be planned as an integral part of the street layout.
- Recommend that where lighting is provided it should conform to European standards.



Figure 10.1 Well-designed seating.

## 10.1 Introduction

10.1.1 Street furniture and lighting equipment have a major impact on the appearance of a street and should be planned as part of the overall design concept. Street furniture should be integrated into the overall appearance of a street. Street audits can help determine what existing street furniture and lighting is in place, and can help designers respond to the context.

10.1.2 It is especially important that, in historic towns and conservation areas, particular attention is paid to the aesthetic quality of street furniture and lighting. Care should be taken to avoid light pollution and intrusion, particularly in rural areas. In some cases it may not be appropriate to provide lighting, for example in a new development in an unlit village.

10.1.3 Street furniture that encourages human activity can also contribute to a sense of place. The most obvious example of this is seating, or features that can act as secondary seating. In addition, street features such as play equipment may be appropriate in some locations, particularly in designated Home Zones, in order to anchor activity.

10.1.4 Where street furniture or lighting is taken out of service, it should be removed.

## 10.2 Street furniture

10.2.1 Excessive street furniture, including equipment owned by utilities and third parties, should be avoided.

10.2.2 Street furniture of direct benefit to street users, particularly seating, is encouraged but should be sympathetic to the design of the street and respect pedestrian desire lines (Fig. 10.1).

10.2.3 Seating is necessary to provide rest points for pedestrians, particularly those with mobility or visual impairments, and extra seating should be considered where people congregate, such as squares, local shops and schools. Guidance is given in *Inclusive Mobility*<sup>1</sup> and *BS 8300*<sup>2</sup>. Seating can sometimes attract anti-social behaviour and therefore should be located where there is good lighting and natural surveillance.

10.2.4 Although much street furniture is provided for the benefit of motorised users, it is generally located on the footway and can contribute to clutter. In some circumstances, it may be possible to reduce footway clutter by placing some of these items on build-outs.

10.2.5 Street furniture, including lighting columns and fittings, needs to be resistant to vandalism and be placed in positions that minimise risk of damage by vehicles.

10.2.6 Street furniture and lighting should be located within the limits of the adoptable highway. Street furniture should be aligned on footways, preferably at the rear edge in order to reduce clutter. Care should be taken that street furniture at the rear edge of the footway does not make adjoining properties less secure by providing climbable access to windows.

<sup>1</sup> Department for Transport (2002) *Inclusive Mobility A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure*. London: Department for Transport

<sup>2</sup> BSI (2001) BS 8300: 2001 *Design of buildings and their approaches to meet the needs of disabled people. Code of practice*. London: BSI



**Figure 10.2** Guard railing blocking pedestrian desire line - note the pedestrian in the photograph has walked around it.

10.2.7 All street furniture should be placed to allow access for street cleaning.

10.2.8 Guard railing is generally installed to restrict the movement of vulnerable road users (Fig. 10.2). In some cases guard railing has been introduced in specific response to accidents.

10.2.9 Guard railing should not be provided unless a clear need for it has been identified (Fig. 10.2). Introducing measures to reduce traffic flows and speeds may be helpful in removing the need for guard railing. In most cases, on residential streets within the scope of MfS, it is unlikely that guard railing will be required.

10.2.10 A Local Transport Note giving further guidance on guard railing is currently in preparation.

10.2.11 It may sometimes be necessary to introduce barriers to pedestrian movement. Where they are required, consideration should first be given to the use of features such as surface textures, bench seating and planting that can guide pedestrian movement whilst also contributing to the amenity of the street.

## 10.3 Lighting

10.3.1 Lighting can contribute to:

- reducing risks of night-time accidents;
- assisting in the protection of property;
- discouraging crime and vandalism;
- making residents and street users feel secure; and
- enhancing the appearance of the area after dark.

10.3.2 Lighting may not be appropriate in all locations or contexts. However, if it is to be provided it should be of high quality. Lighting should generally be in accordance with BS EN 13201-2,<sup>3</sup> BS EN 13201-3<sup>4</sup> and BS EN 13201-4.<sup>5</sup> Guidance on lighting design is given in BS 5489-1, Code of Practice for the Design of Road Lighting,<sup>6</sup> to comply with the requirements of BS EN 13201.

10.3.3 Where streets are to be lit, lighting should be planned as an integral part of the design of the street layout, and in conjunction with the location and anticipated growth of planting. This may require coordination between authorities to ensure that similar standards of lighting are provided for the adopted highway and un-adopted areas, such as car parking. The potential for planting to shade out lighting through growth should be considered when deciding what to plant.

3 British Standards Institute (BSI) (2003) *BS EN 13201-2: 2003 Road Lighting – Performance Requirements*. London: BSI

4 BSI (2003) *BS EN 13201-3: 2003 Road Lighting – Calculation of Performance*. London: BSI

5 BSI (2003) *BS EN 13201-4: 2003 Road Lighting – Methods of Measuring Lighting Performance*. London: BSI

6 BSI (2003) *BS 5489-1: 2003 Code of Practice for the Design of Road Lighting. Lighting of Roads and Public Amenity Areas*. London: BSI

10.3.4 Lighting columns should be placed so that they do not impinge on available widths of footways in the interests of wheelchair users and people pushing prams, or pose a hazard for blind or partially-sighted people. Consideration should be given to incorporating colour contrast bands on lighting columns (see also paragraph 9.1.9).

10.3.5 Lighting should illuminate both the carriageway and the footway, including any traffic-calming features, to enable road users to see potential obstacles and each other after dark. The lighting design should ensure that shadows are avoided in streets where pedestrians may be vulnerable. Adequate lighting helps reduce crime and the fear of crime, and can encourage increased pedestrian activity.

10.3.6 While lighting fulfils a number of important purposes in residential areas, care should be taken not to over-light, which can contribute unnecessarily to light pollution, neighbourhood nuisance and energy consumption.

10.3.7 Lighting arrangements may be used to identify the functions of different streets. For example, a change of light source to provide whiter lighting can distinguish a residential or urban street from the high-pressure sodium (honey coloured) and the low-pressure sodium (orange coloured) lighting traditionally used on traffic routes. This contrast may be reduced over time if white-light sources become more commonly used in road-lighting schemes.

### Lighting equipment on buildings

10.3.8 Consideration should be given to attaching lighting units to buildings to reduce street clutter (Fig. 10.3). While maintenance and access issues can arise from the installation of such features on private property, some authorities have successfully addressed these. There are likely to be fewer challenges arising from the placement of lighting on buildings in new-build streets. Where lighting units are to be attached to a building, an agreement will be required between the freeholder of the property, any existing tenants and the highway/lighting authority.

10.3.9 In attaching lighting to buildings, it should be noted that it may become subject to the Clean Neighbourhoods and Environment Act 2005.<sup>7</sup> It is possible that lighting could then be subject to control by Environmental Health officers if it is deemed to constitute a nuisance. It is therefore important that wall-mounted lighting is carefully designed to reduce stray light.

10.3.10 Key issues in the provision of lighting in residential areas are:

- context;
- lighting intensity;
- scale; and
- colour.



Figure 10.3 Street light mounted on a building.

<sup>7</sup> Clean Neighbourhoods and Environment Act 2005. London: TSO



## Context

10.3.11 Lighting should be appropriate to the context. In some locations, such as rural villages, lighting may not have been provided elsewhere in the settlement and therefore it would be inappropriate in a new development. Often, lighting suits highway illumination requirements but is not in keeping with the street environment or the range of uses of that street. A street audit can be helpful in determining both the level of lighting and the type of equipment used in the area.

10.3.12 Over-lighting should be avoided. More detailed information is given in the *Guidance Notes for the Reduction of Obtrusive Light*.<sup>8</sup> This provides advice on techniques to minimise obtrusive light and recommends that planning authorities specify four environmental zones for lighting in ascending order of brightness, from National Parks and Areas of Outstanding Natural Beauty to city centres. This is helpful in determining limits of light obtrusion appropriate to the local area.

## Lighting intensity

10.3.13 Guidance on the appropriate level of lighting in an area is contained in BS 5489-1 Annex B.<sup>9</sup> This advice provides a systematic approach to the choice of lighting class based on:

- type of road or area;
- pedestrian and cycle flow;
- presence of conflict areas;
- presence of traffic-calming features;
- crime risk; and
- ambient luminance levels.

10.3.14 BS EN 13201-2, *Road Lighting – Performance Requirements*,<sup>10</sup> gives details of the necessary minimum and average levels of lighting to be achieved at each of the lighting classes. For streets within the scope of the MfS, it is likely that Class ME (primarily vehicular) lighting will be inappropriate and that Classes S (for subsidiary routes) or CE (for conflict areas) should be specified.

10.3.15 Lighting levels do not have to be constant during the hours of darkness. Increasingly equipment is available which will allow street lighting to be varied or switched off based on timing or ambient light levels. This offers opportunities to design variable lighting to maximise the benefits while reducing negative impacts at times when lower lighting levels may be adequate.

10.3.16 Continuity of lighting levels is important to pedestrians. Sudden changes in lighting level can be particularly problematic for partially-sighted people.

## Scale

10.3.17 As much street lighting is actually provided for highway purposes, it is often located at a height inappropriate to the cross section of the street and out of scale with pedestrian users.

10.3.18 In street design, consideration should be given to the purpose of lighting, the scale of lighting relative to human users of the street, the width of the street and the height of surrounding buildings. For example, a traffic-calming scheme in Latton in Wiltshire reduced the height of lighting columns by around 40% to make the appearance less urban. In a survey of residents, 58% thought it was a good idea, and only 3% opposed. This arrangement resulted in less intrusion of light into bedroom windows.<sup>11</sup>

10.3.19 Where highway and pedestrian area lighting are both required, some highway authorities installed lamp columns featuring a secondary footway light mounted at a lower height. This can assist in illuminating pedestrian areas well, particularly where footways are wide or shaded by trees. Careful design is essential to ensure that such secondary luminaires do not have a detrimental effect on the uniformity of the scheme or increase light pollution.

10.3.20 While reducing the height of lighting can make the scale more human and intimate, it will also reduce the amount of coverage from any given luminaire. It is therefore a balance between shortening columns and increasing their number.

8 Institution of Lighting Engineers (ILE) (2005) *Guidance Notes for the Reduction of Obtrusive Light*. Rugby: ILE  
9 BSI (2003) *BS 5489-1: 2003 Code of Practice for the Design of Road Lighting. Lighting of Roads and Public Amenity Areas*. London: BSI  
10 BSI (2003) *BS EN 13201-2: 2003 Road Lighting – Performance Requirements*. London: BSI.  
11 Kennedy, J., Gorell, R., Crinson, L., Wheeler, A. and Elliott, M. (2005) *Psychological Traffic Calming*. TRL Report 641. Crowthorne: TRL.

10.3.21 Generally in a residential area, columns of 5–6 m, i.e. eaves height, are most appropriate. It should be noted that, if lighting is less than 4 m in height, it may no longer be considered highway lighting and therefore the maintenance responsibility will rest with the lighting authority rather than the highway authority.

### Colour

10.3.22 The colour of lighting is another important consideration. This relates both to people's ability to discern colour under artificial light and the colour 'temperature' of the light. Light colour temperature is a consequence of the composition of the light, ranging simply from blue (cold) to red (warm).

10.3.23 In terms of discerning colour, 'colour rendering' is measured on a Colour Rendering Index of Ra0–Ra100,<sup>12</sup> from no colour differentiation to perfect differentiation. Generally pedestrians prefer whiter lighting. It provides better colour perception which makes it easier to discern street features, information and facial expressions. The latter can be important in allaying personal security concerns. For the lighting of residential and urban streets, an Ra of 50 is desirable – and at least Ra60 is preferable for locations of high pedestrian activity.

### Other lighting considerations

10.3.24 In some contexts, lighting can contribute to the sense of place of a street, with both active and passive (reflective) lighting features blurring the boundary between function and aesthetic contribution to the streetscape.

10.3.25 As with other forms of street furniture, there are longer-term maintenance issues associated with the choice and location of lighting equipment. It is recommended that this be addressed in the planning process and that equipment which is both sympathetic to the local vernacular and for which adequate replacement and maintenance stock is available be specified.

10.3.26 In developing lighting schemes, it should be recognised that there will be an interaction between light shed and light reflected from pavement surfaces, etc. Lighting should therefore be developed in coordination with decisions about materials and other street furniture.

<sup>12</sup> International Commission on Illumination (CIE) (1995) *Method of Measuring and Specifying Colour Rendering Properties of Light Sources*. Vienna: CIE.

## Appendix F





ALL INFORMATION IS TO BE CHECKED ON SITE FOR ACCURACY AND FIT.

KEY:

- 1. 0.6M - KERB ZONE
- 2. 1.32M - FURNITURE ZONE
- 3. 6.08M - FOOTWAY CLEAR ZONE
- 4. KIOSK LOCATION

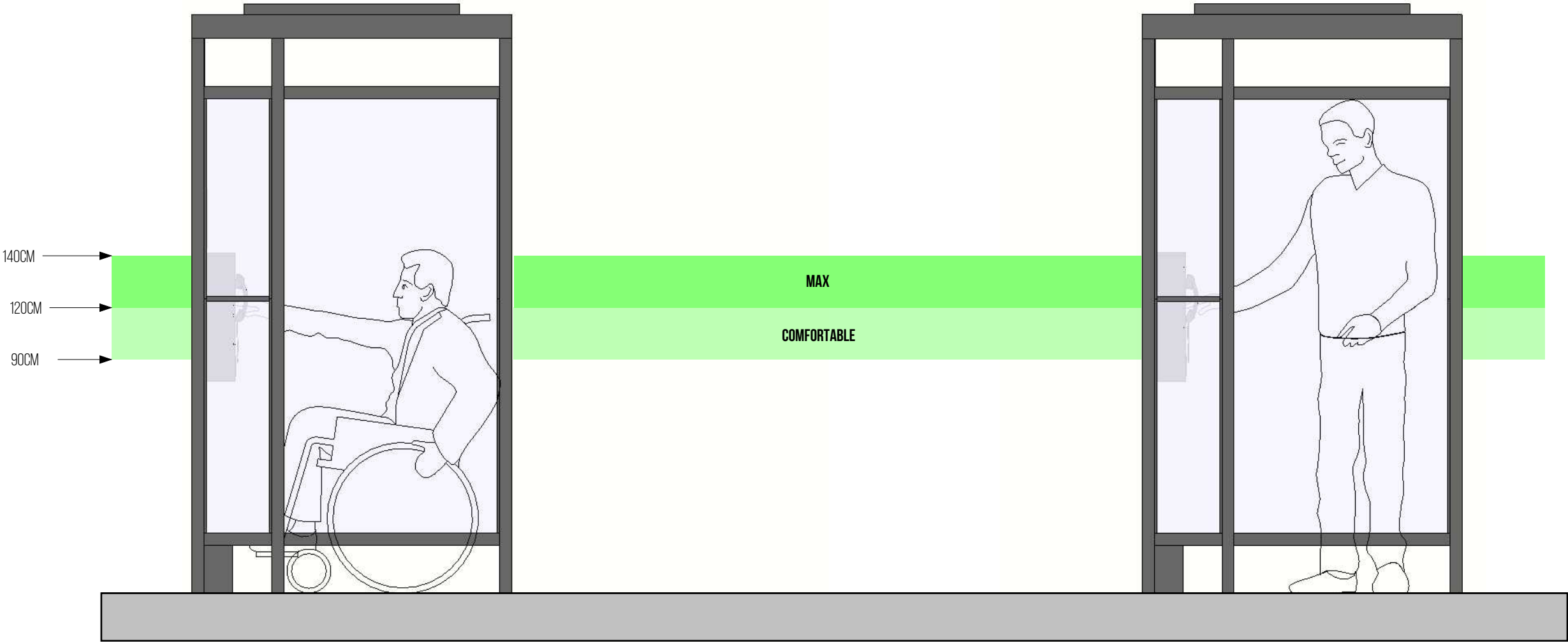
DATE	PROJECT	JOB NO.	ISSUE	SCALE	TITLE
30/01/18	KIOSKS	CN53	001	NTS	CAMDEN

LOCATION: OPPOSITE EUSTON TOWER, 286 EUSTON ROAD

## Appendix G



EURO PAYPHONE

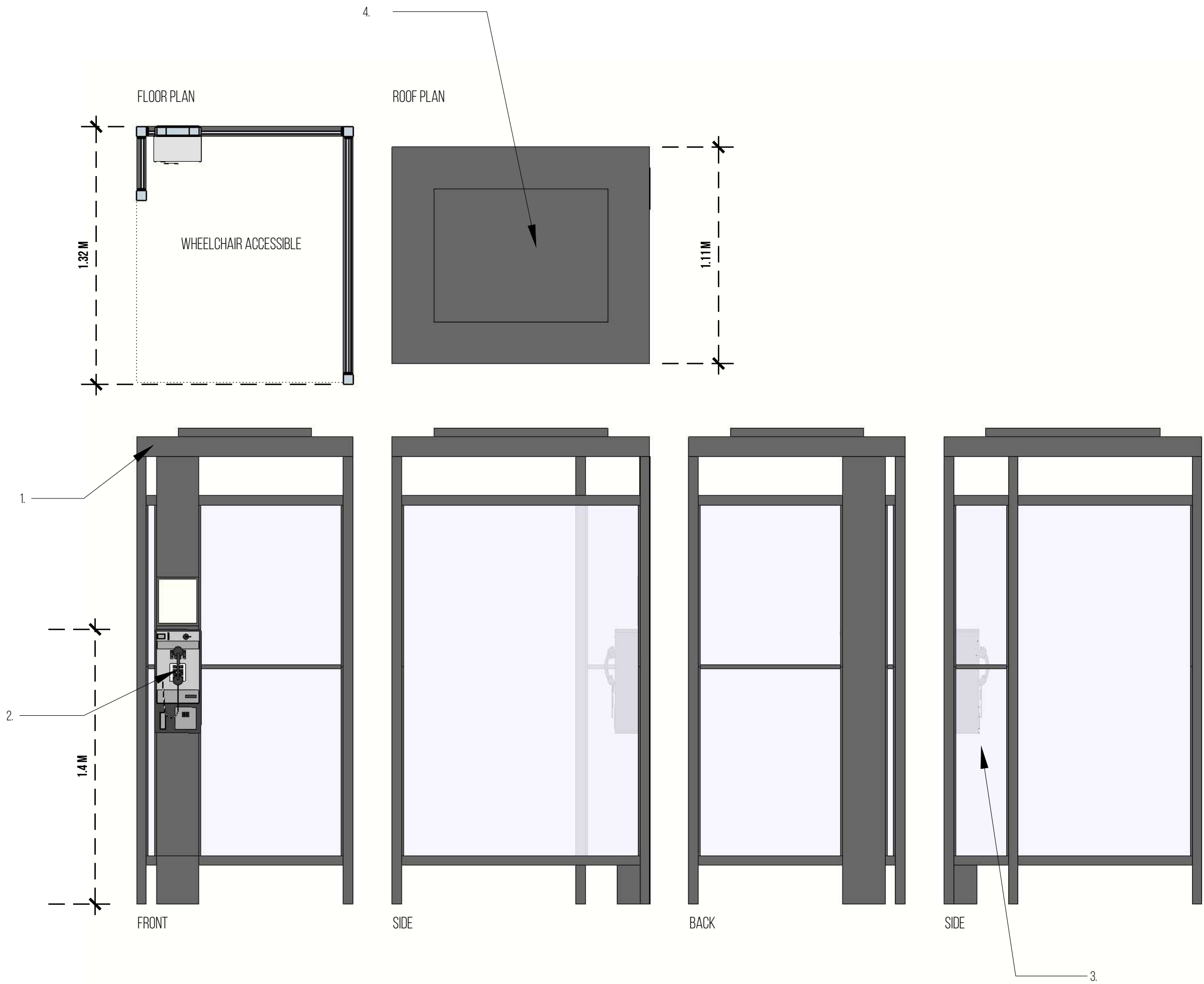


ALL INFORMATION IS TO BE CHECKED ON SITE FOR ACCURACY AND FIT.  
KEY

PROJECT	ISSUED	SCALE	TITLE
KIOSK	03/10/17	1:20 @ A3	KIOSK ACCESSIBILITY DETAILS



EURO PAYPHONE



ALL INFORMATION IS TO BE CHECKED ON SITE FOR ACCURACY AND FIT.

KEY

- 1. POWDER COATED METAL
- 2. PHONE
- 3. REINFORCED LAMINATED GLASS
- 4. SOLAR PANEL

PROJECT	ISSUED	SCALE	TITLE
KIOSK	05/10/17	1:20 @ A3	SPECIFICATION