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## Appeal Decision

Site visit made on 11 July 2018

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6<sup>th</sup> August 2018**

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**Appeal Ref: APP/X5210/W/18/3195005**

**Pavement Adjacent to Premier Inn, Euston Road, London WC1H 9AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mr Tom Fisher (Euro Payphone Limited) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2017/3449/P, dated 14 June 2017, was refused by notice dated 3 August 2017.
  - The development proposed is the installation of x 1 telephone kiosk on the pavement.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), in respect of development by a telecommunications code system operator for the siting and appearance of a telephone kiosk on the pavement adjacent to Premier Inn, Euston Road, London WC1H 9AA in accordance with the terms of the application Ref 2017/3449/P, dated 14 June 2017 (form dated 22 March 2017), and the plans submitted with it.

### Procedural Matters

2. The description of development and appeal site are taken from the appeal form to provide certainty of the proposal subject to the appeal. Although the date on the application form was 22 March 2017, the date of the application is taken from the appeal form, appeal statement, covering letter and the Council's decision notice which are consistent with the ownership notice which was served.
3. To confirm the information provided, the pavement's width was measured during the site visit. The appellant has been given the opportunity to comment on this measurement but no response has been forthcoming.
4. A revised version of the National Planning Policy Framework (the Framework) was issued on 24 July 2018 but raises no new issues concerning telecommunication matters beyond those raised by the parties.
5. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed telephone kiosk under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) subject to prior approval by the local planning authority of siting and appearance. The Council

determined that prior approval was required and refused for the siting and appearance of the kiosk proposed. This appeal has been determined based upon these matters.

6. The Council has made reference in the reasons for refusal to the Camden Local Plan (LP). However, the principle of development is established by the GPDO and prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO has no requirement that regard be had to the development plan. The provisions of the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. Consequently, this appeal is not determined on the basis of Section 38(6) of the Planning and Compulsory Purchase Act 2004. Nonetheless, the development plan policies and related guidance, including the *Streetscape Design Manual* (SDM) although this does not specifically refer to kiosks, *Streetscape Guidance* (SG), the *Pedestrian Comfort Guidance for London* (PCG) and the *Camden Planning Guidance* (CPG), insofar as they are relevant to matters of siting and appearance, have been taken into account.

### **Main Issues**

7. The main issues are considered to be whether or not approval should be given in respect of the siting and appearance of the development, with particular reference to (a) the character and appearance of the locality and (b) and the convenience of highway users.

### **Reasons**

#### *Character and Appearance*

8. The appeal site is located within a wide footway outside a Premier Inn hotel which fronts the heavily trafficked Euston Road. It was observed during the 2 morning site visits that the flow of pedestrians is significantly higher along the north side of the road when compared to the pavements in-front of the hotel. The street furniture along the south side of the road includes traffic signs, control boxes and columns associated with a traffic light junction, lamp-posts, traffic signs, an Infocus Media kiosk sited alongside cycle parking and an air quality monitoring station.
9. This appeal scheme would introduce a freestanding kiosk into the existing streetscene. However, the siting of the proposed kiosk would respect the pattern and arrangement of existing street furniture along the pavement. The assimilation of the proposed kiosk into the streetscene would be assisted by its lightweight design and being similar in scale to the other kiosk. This sited sufficient distance away so as not to result in an over concentration or excessive proliferation of such structures along the south side of the road. The appeal scheme would not, therefore, either result in an unacceptable level of street clutter or be an incongruous addition to the streetscene along this part of Euston Road.
10. Accordingly, it is concluded that the siting of the kiosk would not detract unacceptably from the character and appearance of the locality. Further, it would not conflict with LP Policies D1, D2 and T1 insofar as that they are material consideration to this appeal for prior approval. LP Policy D1 is concerned with high quality design in development which respects local context

and character and also integrates well with the surrounding streets. LP Policy T1 refers to improvements to the pedestrian environment by supporting high quality public realm improvement works and this is echoed in the SDM, CPG and SG which seek to minimise unnecessary street clutter.

#### *Convenience of Highway Users*

11. During the site visit it was observed that there is a steady flow of pedestrians walking along the pavement, including those accessing the Premier Inn. Based upon the measurements taken, the measured pavement width between the front elevation of the store and the kerb is 5.5 metres. By reason of siting and footprint, the proposed kiosk would reduce the available width of pavement. However, the unobstructed pavement would satisfy the Council's SG, CPG and PCG and would reflect the similar width adjacent to the existing street furniture to the east.
12. The Council has identified that the entrance to the Premier Inn is adjacent to the appeal site. However, there is sufficient distance between the entrance to the hotel and the proposed kiosk to avoid the appeal scheme causing an obstruction to guests, including those who might be mobility impaired using the external lift.
13. Concerns have been raised about the siting of the appeal scheme placing restrictions on taxis being able to drop-off/pick-up passengers and for vehicles to load/unload whilst parked. However, there is limited evidence provided to support these concerns and the proposed kiosk is of a size which would not materially restrict such activities. Further, from what was observed, the taxis operate closer to the railway stations along Euston Road, particularly along the north side, rather than outside the hotel. I am satisfied that the appeal scheme would not result in a significant impediment to the operations of taxis and delivery vehicles.
14. On this issue, it is concluded that the siting of the kiosk would not unacceptably harm the convenience of other highway users. Further, it would not conflict with LP Policies T1 and T6 insofar as that they are a material consideration to this appeal for prior approval. These policies seek to provide high quality footpaths and pavements that are wide enough for the number of people expected to use them and promoting fair access for all. The approach concerning an adequate width of pavement is echoed in the guidance contained in the SDM, SG and PCG. In respect of highway safety matters, no specific conflict has been identified with LP Policies G1 and A1 which are concerned with the delivery and location of growth in Camden and protecting the quality of life of occupiers and neighbours.

#### *Other Matters*

15. The Framework deals with supporting high quality communications infrastructure, including applications for prior approval, and requires that local planning authorities must determine applications on planning grounds. As the principle of development is established by the GPDO, some of considerations raised by other parties, such as need for the proposed kiosk, are not relevant matters.
16. The appellant has referred to the principle of the development being supported by the Framework which encourages the development of telecommunication

- infrastructure to support economic growth. Furthermore, and subject to the location of the equipment, the kiosk would be accessible to those with impaired mobility and include solar technology as a power source.
17. The Council has referred to the number of kiosks within the surrounding area. However, with the exception of the Infocus Media kiosk sited to the east, these other kiosks are in locations that are some distance away from the site with a different character and surrounding context. Further, both parties have provided appeal decisions, including elsewhere along Euston Road. However, in the absence of their detailed planning circumstances, I cannot be certain that these other schemes are directly comparable to the proposed kiosk. This appeal has been determined based upon the planning circumstances of the proposed kiosk.
  18. The general concerns of the Police and others have been carefully noted but there is no specific evidence or reason to consider that the proposed kiosk's presence would encourage or increase crime or anti-social behaviour when taking into account that the design of the kiosk is not fully enclosed. Further, no details of CCTV cameras which might be obstructed have been provided. I am also mindful that there is nearby street lighting and natural surveillance of the appeal site, including from the adjacent hotel restaurant. This is a neutral matter in the determination of this appeal.
  19. Although an amended drawing has been provided by the appellant, the Council has identified that the internal layout of the proposed kiosk does not accord with the updated version of BS8300 – *Design of Buildings and their approaches to meeting the needs of disabled people*. However, there are no reasons for me to consider that the appellant would not fully accord the provisions of BS8300. The internal change required to the location of the equipment would not materially alter the assessment made concerning the siting and appearance of the appeal scheme. This is a neutral matter in the determination of this appeal.
  20. Concerns have been expressed regarding the prospect of outside panels of the payphone kiosk being used for advertisements. The erection of a kiosk and the display of advertisements are distinct and separate matters requiring different applications. This appeal relates to the construction of a kiosk only and not any advertisement consent that may otherwise be required. I have determined the appeal on that basis.

### **Conclusion**

21. For the reasons given above and having regard to all matters raised, it is concluded that the appeal should be allowed and prior approval granted subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO.

*D J Barnes*

INSPECTOR