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## Appeal Decision

Site visit made on 20 April 2013

by **Gary Deane BSc(Hons) DipTP MRTPI**

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

Decision date: 13 May 2013

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**Appeal Ref: APP/X5990/A/12/2187244**

**Pavement outside 348 Harrow Road, London W9 3TH**

- 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 of Infocus Public Networks Limited against the decision of the City of Westminster Council.
  - The application Ref 12/07473/TELCOM, dated 19 July 2012, was refused by notice dated 12 September 2012.
  - The development proposed is the installation of a payphone kiosk.
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### 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 payphone kiosk at land outside 348 Harrow Road, London W9 3TH in accordance with the terms of the application Ref 12/07473/TELCOM, dated 19 July 2012, and the plans and photographs submitted with it, subject to the following conditions:
  - 1) Upon installation the payphone kiosk hereby approved shall be painted black and maintained in that colour for as long as it remains in situ.
  - 2) If the payphone kiosk hereby approved 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.

### Main Issue

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 proposal on the character and appearance of the local area.

### Reasons

3. The new payphone kiosk would be sited alongside a low-level boundary wall and railings that mark part of the highway frontage of a block of flats. In this position, set back from the main carriageway, the new installation would stand together with a telecommunications cabinet, another telephone kiosk and a bus shelter with a bus stop, litter bin and road signage situated closer to the main carriageway of Harrow Road. As such, the siting of the new kiosk would reflect and consolidate the grouped layout of existing street furniture. By not
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- encroaching into the main body of the footway, the new kiosk would not hinder pedestrian flows along it.
4. The design of the proposal with its 3-sided black steel frame structure with glass sides and rear would be simple and functional. The new installation would be visually read together with the variety of street furniture along this section of the footway and blend in with the mixed commercial, retail and residential character of the local area. In that context, it would not unacceptably add to visual clutter in the local street scene or look out of place.
  5. Therefore, I conclude that the proposal would be in keeping with the character and appearance of the local area. Accordingly, it does not conflict with Policy CS27 of the Council's Core Strategy (CS) and Policies DES 1 and DES 7 of the Westminster City Council Unitary Development Plan (UDP). These policies aim to ensure that development is appropriate in design and quality and safeguards the character and quality of the townscape. The Council accepts that reference in the reason for refusal to UDP Policy DES 10 was made in error since it concerns listed buildings. As the appeal scheme does not affect a designated heritage asset such a conservation area or a listed building, CS Policy CS27 to which the Council also refers, is also less relevant to the proposal.
  6. For the reasons given, the proposal would also adhere to the general principles of the Council's Supplementary Planning Document, *Westminster Way, Public realm strategy: Design principles and practice*. I also see no obvious conflict with the policies of the National Planning Policy Framework (the Framework) or the guidance within the *Manual for Streets*.
  7. In reaching this conclusion, I have taken into account the various appeal decisions to which both main parties have referred. In my experience, the particular circumstances of each case are rarely replicated elsewhere even for proposals that are essentially the same, as in this instance. In any event, I have assessed this proposal on its individual merits.
  8. The Council raises concern that advertising material may be displayed on the new structure. However, the courts have decided that other controls may be used to manage advertising and that such concerns should not affect determinations under this Order. Although situated close to an existing payphone, the Framework advises that the planning system should not seek to prevent competition between different operators or question the need for the telecommunications system. The potential to encourage anti social behaviour is not relevant to this appeal.
  9. Overall, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed. To protect the visual amenity of the local area, a condition is imposed regarding materials and colour of the new kiosk. For the same reason, a condition is attached that requires the kiosk to be removed if it becomes no longer necessary.

*Gary Deane*

INSPECTOR