
Appeal Decisions

Site visit made on 5 June 2018

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 26 June 2018

CASE DETAILS

All Appeals

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeals are made by Mr Tom Fisher (Euro Payphone Ltd) against the decisions of Bournemouth Borough Council.
- The development proposed in each case is described on the appeal forms as 'installation of telephone kiosk – Prior Approval Procedure – Permitted Development'.

Appeal A Ref: APP/G1250/W/18/3192760

Pavement outside Executive Business Centre, 89 Holdenhurst Road, Bournemouth BH8 8EB

- The application Ref 7-2017-18550-LD, dated 23 March 2017, was refused by notice dated 25 July 2017.

Appeal B Ref: APP/G1250/W/18/3192759

Pavement outside Lyme Regis House, 69 Holdenhurst Road, Bournemouth BH8 8FT

- The application Ref 7-2017-18550-LE, dated 22 March 2017, was refused by notice dated 25 July 2017.

Appeal C Ref: APP/G1250/W/18/3192758

Pavement outside Citygate Centre, 138A Holdenhurst Road, Bournemouth BH8 8AS

- The application Ref 7-2017-18550-LF, dated 22 March 2017, was refused by notice dated 25 July 2017.
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Decisions

1. The appeals are dismissed.

Main Issues

2. As an electronic communications code operator, the Appellant benefits from deemed planning permission for the proposed telephone kiosks under Schedule 2, Part 16 of the GPDO¹ 2015. This is conditional on a prior approval procedure having been followed, as is the case in these proposals.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

3. The provisions of Schedule 2, Part 16 require the local planning authority to assess each proposed development solely on the basis of its siting and appearance. While I note that wider issues, such as the need for the kiosks have been raised, matters such as the principle of the proposed developments and the need for the facilities are not at issue in these appeals. Therefore, I have made my determinations with regard to the siting and appearance of each proposed development and in accordance with the provisions of the GPDO.
4. With regard to Appeal C, the proposed payphone kiosk would be located within the setting of the Grade II listed East Cliff United Reformed Church. The impact on the setting of the listed building did not form part of the Council's reason for refusal. However, I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of the listed building, and have done so.

Main Issues

5. The main issues in these appeals are the effect of the siting and appearance of each proposed payphone kiosk on the character and appearance of the area; and, in the case of Appeal C, whether the proposal would preserve the setting of the Grade II listed East Cliff United Reformed Church (the listed building).

Reasons

Planning policy and guidance

6. I have had regard to the National Planning Policy Framework (the Framework) insofar as it is relevant to the appeal proposals. The core planning principles of which seek to secure high quality design and a good standard of amenity for all. The Framework is also supportive of the development of high quality communications infrastructure and emphasises the contribution that such development makes towards local community facilities and services; while paragraph 45 establishes that applications for telecommunications development, including those for prior approval, should be supported by the necessary evidence to justify the proposed development.
7. Insofar as they are relevant to assessing the effect of the siting and appearance of the appeal proposals on the character and appearance of the area, I have also had regard to the design and public realm aims of Policies within the Bournemouth Local Plan: Core Strategy, 2012 (CS); the Bournemouth Local Plan: Town Centre Area Action Plan, 2013 (AAP); and the Bournemouth Public Realm Strategy: Guiding Principles Supplementary Planning Document, 2013 (SPD) as material considerations.

Payphone kiosks

8. In all cases, the proposed payphone kiosks would have a footprint of approximately 1.3m by 1.1m, and stand a little over 2.4m high. They would be of a utilitarian design, comprising a black powder coated metal frame, with reinforced laminated glass panels on two sides, an open front, and a shorter panel return to one side. The flat roofs would incorporate a solar panel (PV).
9. Classified as a 'key connection' within the AAP, Holdenhurst Road links the town centre and Lansdowne Roundabout with Bournemouth Railway Station.

The appeal sites are located at the north eastern part of the Town Centre area, where Holdenhurst Road has a commercial character, lined by relatively modern large-scale buildings containing a mix of office and university buildings and ground-floor retail uses. The AAP seeks to improve the quality of the urban environment and public realm in this area, parts of which have been subject to public realm improvement, including tree planting.

Appeal A - Pavement outside Executive Business Centre BH8 8EB

10. The kiosk would be sited within a relatively wide section of pavement, a little over half a metre in from the kerb. With the exception of a relatively slim, lamp standard located close to the kerb in front of the building's side entrance, the pavement along this part of Holdenhurst Road is generally devoid of street furniture. Looking along the pavement in both directions, street furniture has a slim and vertical emphasis, and is located close to the kerb edge.
11. The overall character of the public realm is open and uncluttered; and what limited street furniture there is in the vicinity does not establish a context for the proposed kiosk. Even with open sides and the use of clear glazing, the proposed kiosk would introduce a squat and bulky feature in a prominent location on a principal route through Bournemouth. Consequently, the proposed kiosk would contribute visual clutter, which would undermine the open nature of the street scene.
12. The phone boxes located outside London House, which gained approval some ten years ago, are in a characteristically different part of Holdenhurst Road and therefore provide no useful justification for allowing the appeal.

Appeal B - Pavement outside Lyme Regis House BH8 8FT

13. Lyme Regis House is adjacent to the Executive Business Centre and contains a convenience store and café at ground floor with student accommodation above. The proposed kiosk would be roughly opposite the building's southwest corner, close to an ATM machine. Located a little over three metres from the building's frontage, the kiosk would be sited on a wide section of pavement that currently has no street furniture.
14. Looking up and down Holdenhurst Road a vertical emphasis is provided by the traffic signals, lamp standards and trees planted in the central reservation. Therefore, what street furniture there is locally does not establish a context for the proposed kiosk, which would be angular and squat in comparison. Even though it would be open on one side and feature clear glazed panels, its height and footprint combined with the black metal frame would introduce an incongruous feature in a prominent location.
15. The shortfalls or harmful impact of other payphones that are located further along Holdenhurst Road do not justify the further harm that would result from the introduction of a payphone outside Lyme Regis House. Moreover, as it would not relate well to the other limited items of street furniture in the vicinity and would be divorced from the façade of nearby buildings, the scale or style of local built form would not compensate for the discordant impact the proposed kiosk would have.

Appeal C - Pavement outside Citygate Centre BH8 8AS

16. The proposed kiosk would be located outside the Citygate Centre, which contains a church and student hostel; close to the Grade II East Cliff United Reformed Church. I saw that the public realm in this area is of relatively high quality, with a palette of materials, trees and cycle racks giving a degree of coherence to what otherwise may have been a nondescript streetscape.
17. Whilst I saw that there was street furniture at the other end of the bus stop, and around the mouth of the nearby road junction, these do not unduly protrude into the wide and hard landscaped area. The phone boxes and bus stop on the opposite side of the road are separated by four lanes and a central refuge, unrelated in character and appearance to the appeal site.
18. The buildings in the vicinity are relatively modern, large scale and mixed material treatment. Even so, the proposed kiosk would be located on the wide, splayed pavement and stand remotely from the building elevations and on a different alignment to any more substantial elements of street future and landscaping further along the route. The proposed kiosk would protrude into the open, uncluttered area of pavement and, although not excessively tall, it would present a discordant and ill-considered feature within this part of the local street scene.
19. The St Swithun's Road junction, traffic signs and signals and the planting and high walling outside of Citygate Church would provide a degree of separation between the appeal site and the Grade II listed East Cliff United Reformed Church. Therefore, the siting of the proposed kiosk would not harmfully impact on views to the East Cliff United Reformed Church, thereby preserving the setting of the Grade II listed building. However, this does not override my consideration above of wider matters in respect of character and appearance.
20. Although other payphones may have gained approval and fail to integrate in other parts of Holdenhurst Road, these are not sited where the local street scene is usefully comparable and do not justify the harmful impact that the appeal proposal would have.

Other matters

21. My attention has been drawn to other appeal decisions relating to prior approval for telephone kiosks in London and Swindon. However, the site-specific circumstances are not directly comparable with those that apply in these appeals. In any case, I have reached my own conclusions on the appeal proposals on the basis of the evidence before me. Given that the Council has provided a clear analysis of each site and a reasoned objection to each kiosk, I do not consider that there has been a 'blanket ban' or that they have issued a generic refusal without evidence to justify their decisions.

Planning balance and conclusions

22. For the reasons set out above, I conclude that, in all appeals, the siting and appearance of each proposed payphone kiosk would have a harmful effect on the character and appearance of the area. Therefore, there would be conflict with the Framework in respect of requiring good design and the development of high quality communications infrastructure. The proposals would also be contrary to the design and public realm aims of Policy CS41 of the CS, Policy

D7 of the AAP and the SPD, insofar as these seek to ensure development and spaces are well designed and of a high quality, and contributes positively to the appearance of the public realm, and improve the quality of the pedestrian environment, including through ensuring routes are clear and attractive. These are matters that weigh heavily against the appeal proposals.

23. Even if the proposed kiosks have been designed to deter anti-social behaviour, this is neutral in the overall planning balance. Each kiosk would also use PV panels to generate power, although as this would solely provide each kiosk's power requirements this matter is also neutral in the overall planning balance; as is the absence of an objection in relation to highway safety and pedestrian movement.
24. The proposed payphone kiosks would be an accessible local community facility, which could also be used by tourists. I afford these benefits moderate weight, which cumulatively, would not outweigh the harm to the character and appearance of the areas concerned.
25. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeals should be dismissed.

H Porter

INSPECTOR