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## 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:

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### 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'.
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#### **Appeal A Ref: APP/G1250/W/18/3192753**

#### **Pavement outside 55 Old Christchurch Road, Old Christchurch Road, Bournemouth BH1 1DT**

- The application Ref 7-2017-18550-LH, dated 22 March 2017, was refused by notice dated 25 July 2017.
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#### **Appeal B Ref: APP/G1250/W/18/3192754**

#### **Pavement outside 58 Commercial Road, Commercial Road, Bournemouth BH2 5LR**

- The application Ref 7-2017-18550-LI, dated 22 March 2017, was refused by notice dated 25 July 2017.
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#### **Appeal C Ref: APP/G1250/W/18/3192755**

#### **Pavement outside 42-44 Commercial Road, Commercial Road, Bournemouth BH2 5LP**

- The application Ref 7-2-17-18550-LJ, dated 22 March 2017, was refused by notice dated 25 July 2017.
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#### **Appeal D Ref: APP/G1250/W/18/3192756**

#### **Pavement outside 156 – 164 Old Christchurch Road, Old Christchurch Road, Bournemouth BH1 1NL**

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

1. The appeals are dismissed.

## **Procedural and Preliminary Matters**

2. The provisions of Schedule 2, Part 16 of the GPDO<sup>1</sup> 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 proposed 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 proposal and in accordance with the provisions of the GPDO.

## **Main Issues**

3. The main issues in these appeals are:
  - In all cases, the effect of the siting and appearance of each proposed kiosk on the character and appearance of the area, in respect of Appeals A and D, with due regard to the Old Christchurch Road; and
  - In the case of Appeals B, C and D, the effect of the siting and appearance of each payphone kiosk on the safe and efficient operation of the highway.

## **Reasons**

### *Planning policy and guidance*

4. I have had regard to development plan policies and the National Planning Policy Framework (the Framework) as material considerations insofar as they are relevant to the siting and appearance of the proposed developments. Core planning principles set out in paragraph 17 of the Framework seek to secure high quality design and a good standard of amenity for all, to conserve heritage assets in a manner appropriate to their significance and to make the fullest possible use of public transport, walking and cycling; sections 4, 7 and 12 set out national policy in respect of these matters. 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.
5. Although not determinative, 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, heritage assets, and the safe and efficient operation of the highway, I have also had regard to the design and public realm and transport 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*

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

6. In each case, the proposed payphone kiosk would have a footprint of approximately 1.3m by 1.1m, and stand a little over 2.4m high. All 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).

#### *Locations*

7. Appeal sites A and D are located within the Old Christchurch Road Conservation Area. With Old Christchurch Road its central spine, the Conservation Area includes a variety of streetscapes fronted by a range of handsome Victorian and later buildings, reflecting the evolution of this part of Bournemouth. Traditional street furniture adds a further degree of richness to the area; collectively these elements contribute positively to the character and appearance of the Conservation Area and to its significance as a designated heritage asset.
8. Commercial Road forms a pedestrian precinct within the Prime Shopping Area of Bournemouth town centre, and is specifically identified within the AAP as an area for improved street design. Old Christchurch Road is also subject to evolving and comprehensive public realm improvements.

#### *Appeal A - Pavement outside 55 Old Christchurch Road BH1 1DT*

9. The proposed payphone kiosk would be located within the pedestrian precinct in the heart of the Old Christchurch Road Conservation Area. The proposed kiosk would be sited on a wider section of very well-used pavement close to a junction of car-free streets within the shopping area. I note that this area may be central to a new civic space; however, I have seen nothing substantive of this so have therefore considered the impact of the proposal on the space as I saw it.
10. Upon my site visit, I observed much of the local street furniture to have a traditional appearance, with the exception of slender bollards and low-level cycle racks. Overall, there is minimal visual clutter on the footway, allowing views across the space and contributing to a sense of openness.
11. The kiosk would be located near to the kerb, some 3 metres distant from the façades of handsome buildings on this part of Old Christchurch Road. In medium to long distance views, the proposed kiosk would be prominent, jutting out into what is currently an open and attractive streetscape. It would be seen directly in front of the HSBC building at a bustling intersection of pedestrianised streets and would thus appear as a jarring feature in the street scene that would intrude upon views along this part of Old Christchurch Road. Whilst the proposed kiosk would be open on one side, with clear glazed panels, its height and footprint, in combination with the black metal frame, would appear stark and incongruous, unrelated in either material or form to its surroundings.
12. The appeal proposal would add visual clutter to the area, which would not relate well to the other limited items of street furniture in the vicinity. It would also detract from the attractiveness of the façades of traditional buildings and public realm within this part of the Old Christchurch Road Conservation Area. In the parlance of the Framework, the harm to the designated heritage asset

would be less than substantial, which should be weighed against the public benefits, as in the planning balance and conclusions that follow.

*Appeal B - Pavement outside 58 Commercial Road BH2 5LR*

13. Upon my site visit, I observed a large amount of street furniture in the area; the areas of streetscape that are currently devoid of street furniture, therefore, help off-set the impact of visual clutter. While the proposed kiosk would respect the careful alignment of existing street furniture in the vicinity, it would fill a significant portion of open gap between a lamp standard and litter bin. Consequently, it would create additional clutter and undermine a clear portion of open space within the street.
14. Moreover, in spite of the simplicity of its functional design, open front and clear-glazed panels, the angular, black metal frame and utilitarian appearance would contrast with the slender verticality or diminutive scale of other street furniture along this route. While accepting that the buildings facing onto this part of Commercial Road have high, glazed shopfronts at ground floor level and contain advertising, I consider the proposal would nevertheless stand out as an incongruous and discordant feature in the local street scene.
15. At the time of my site visit, which took place on a week day in the early afternoon, I noted there was a great deal of pedestrian activity near the appeal site, with a fairly constant flow of people entering and exiting the shops on either side of the street. At peak shopping times, for example Saturday lunchtime, I would expect the number of pedestrians using the route to be even greater.
16. Although the route is wide and the proposal would be some distance from adjacent bin, it would encroach into an uncluttered and open space between existing street furniture. There would be minimal impact on pedestrian flow up and down Commercial Road; however, by placing a further physical obstruction in an already cluttered environment, the proposal would impede the free flow of pedestrians crossing from one side to the other in the busy area. I do not consider that the absence of tactile paving along the route usefully establishes that it would not be used by blind or partially-sighted people.

*Appeal C - Pavement outside 42-44 Commercial Road BH2 5LP*

17. The appeal site is located within a bustling pedestrian precinct within the Prime Shopping Area of Bournemouth town centre. The area has been identified within the AAP as an area for improved street design, reflected in the alignment and broadly cohesive design and colour of much of the street furniture along the route.
18. The proposed kiosk would be sited slightly off the centre of the street, and, notwithstanding the proximity to an existing payphone kiosk and ATM machine, out of alignment with the more defining row of street furniture and trees. Viewed from the opposite side of Commercial Road, the kiosk would be seen against a backdrop of modern shop fronts and advertising. However, owing to the slight rise and curve of the street, the kiosk would introduce a starkly utilitarian and incongruous feature in a highly prominent location. Consequently, it would create visual clutter and encroach upon views up

Commercial Road, which would undermine the public realm improvements in this part of Bournemouth.

19. That the other, existing, telephone kiosk does not integrate well into the streetscape, does not justify the additionally discordant impact the proposed kiosk would have on the character and appearance of the local context.
20. At the time of my site visit, which took place in the early afternoon, the street was well used by pedestrians, many of whom were crossing from shops on one side of the street over to the other. At peak hours, I would expect pedestrian flows to be even more considerable. The proposed instillation of a tall and bulky structure with a relatively large footprint in a location that is subject to significant footfall would be likely to impair the free flow of pedestrian movement.

*Appeal D - Pavement outside 156 – 164 Old Christchurch Road BH1 1NL*

21. The proposed payphone kiosk would be sited on a relatively wide section of pavement on a part of Old Christchurch Road that is lined with food and drink establishments, shops and services. The minimal amount of street furniture in the vicinity and the use of cohesive materials contribute to the characteristically open and coordinated public realm.
22. When viewed from the opposite side of Old Christchurch Road, the kiosk would be seen against a backdrop of modern shop fronts. However, due to its location near the road edge and some distance from the facades of nearby buildings, the proposal would be a conspicuous and isolated feature in views along Old Christchurch Road. Notwithstanding its simple and modern design, the proposed kiosk would appear as incongruous and detract from the generally open and unified appearance of the street scene.
23. The appeal site is close to Horseshoe Common, which has been identified within the AAP as an area for improved street design. The proposed kiosk would conflict with the objective of enhancing existing open spaces, creating clutter and detracting from the openness of the streetscape and undermining recent public realm improvements. The appeal site is within the Old Christchurch Road Conservation Area and the council refers to a number of historic buildings in the vicinity. However, given the relatively modern public realm and ground-floor shop fronts and nearby Citrus Building, I agree that the proposed kiosk would not undermine the significance or setting of designated heritage assets. However, this does not override my consideration above of wider matters in respect of character and appearance.
24. The appeal site is located on a wider section of the pavement, which I observed had a relatively high and constant flow of pedestrians. A portion of the inner edge of the pavement in front of a bar/restaurant has been allocated for external seating; this is not shown on the Appellant's plans, which show an unobstructed pavement width of just over 5m.
25. Even taking account of the seating area, the area of unobstructed highway would be some 3m wide and in excess of the national guidance requirements; however, the proposal would reduce the available width of the footway to the detriment of the pedestrian environment particularly at times of peak pedestrian movement.

## **Other matters**

26. 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**

27. 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, contribute positively to the appearance of the public realm, and improve the quality of the pedestrian environment, including through ensuring routes are clear and attractive.
28. Moreover, in the case of appeal A, and irrespective of the findings of the Council on this matter, I find that the proposal would fail to preserve or enhance the character or appearance of the Old Christchurch Road Conservation Area. In respect of Appeals B, C and D there would also be conflict with Policy CS18 of the CS, which seeks to ensure new development is well integrated with, and will not compromise, any existing or proposed cycling and walking network. All of these factors weigh heavily against the appeal proposals.
29. Even if the proposed kiosks have been designed to deter anti-social behaviour and use photo-voltaic modules to generate power, these matters are neutral in the overall planning balance. That the proposed payphone kiosks would be an accessible local community facility that could also be used by tourists is a social and public benefit, to which I attach moderate weight.
30. Cumulatively the benefits associated with the proposed kiosks would not outweigh the harm to the character and appearance of the all the areas concerned and also with regards to pedestrian movement in Appeals B, C and D. In respect of Appeal A, the social and public benefits are not sufficient to outweigh the harm to the designated heritage asset.
31. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeals should be dismissed.

*H Porter*

INSPECTOR