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## Appeal Decision

Site visit made on 3 September 2018

**by J D Westbrook BSc(Econ), MSC, MRTPI**

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

**Decision date: 11<sup>th</sup> September 2018**

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### **Appeal A Ref: APP/L5240/W/18/3195089**

#### **Pavement outside Boxbark, 99 George Street, Croydon, CR0 1LD**

- 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 Mr Tom Fisher on behalf of Euro Payphone Ltd against the decision of the Council of the London Borough of Croydon.
  - The application Ref 17/02902/PA8, dated 22 March 2017, was refused by notice dated 3 August 2017.
  - The development proposed is the siting of a telephone kiosk.
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### **Appeal B Ref: APP/L5240/W/18/3195071**

#### **Pavement outside of 26 Dingwall Road, Croydon, CR9 3EE**

- 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 Mr Tom Fisher on behalf of Euro Payphone Ltd against the decision of the Council of the London Borough of Croydon.
  - The application Ref 17/02899/PA8, dated 22 March 2017, was refused by notice dated 3 August 2017.
  - The development proposed is the siting of a telephone kiosk.
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## **Decisions**

### **Appeal A**

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 outside Boxbark, 99 George Street, Croydon, CR0 1LD in accordance with the terms of the application Ref: 17/02902/PA8, dated 22 March 2017, and the plans submitted with it.

### **Appeal B**

2. The appeal is dismissed.

## **Procedural Matters**

3. As an electronic communications code operator, the appellants benefit from deemed planning permission for a proposed payphone kiosk (also known as a public call box) under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), subject to

prior approval by the local planning authority of siting and appearance. The appellant applied to the Council on that basis. The Council determined that prior approval was required and refused for the siting and appearance of the payphone kiosk subject to each of the Appeals.

4. The Council have made reference to certain development plan policies within its decision notices relating to each of Appeals, including Policy SP4.1 of the Croydon Local Plan - Strategic Policies 2013 (LP), which relates to issues of design and local character, and also to Policy SP8.8 of the LP which relates to tram infrastructure provision. However, the principle of development is established by the GPDO and a prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO includes 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, these appeals are not determined on the basis of Section 38(6) of the Planning and Compulsory Purchase Act 2004.
5. The National Planning Policy Framework 2018 (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, considerations such as need for a payphone kiosk are not a relevant matter.

## **Main Issues**

6. I consider that the main issue for each of the appeals is whether or not approval should be given in respect of the siting and appearance of the development, with particular regard in the case of Appeal A to its effect on the character and appearance of the area and its effect upon highway and pedestrian safety, and in the case of Appeal B to its effect upon the development of the tram infrastructure in Croydon.

## **Reasons**

### *Background*

7. The appeals relate to two freestanding payphone kiosks. The kiosks consist of the same design, a broadly rectangular structure of approximately 1.3m depth by 1.1m width and an approximate height of 2.4m. The main structure would be three sided, with asymmetrical panels of reinforced laminated glass in a powder coated metal frame. The design of the kiosk would allow accessibility for people with limited mobility, including wheelchair users.
8. The appellants make note in both of the appeal statements of examples of recent appeal decisions and court cases relating to the siting of telephone kiosks. I note these examples and the general principles raised, but I have very little information as to the detailed siting of these proposals and, in any case, I have dealt with each of the current proposals on its individual merits with regard to its specific location.

### *Appeal A*

9. The proposed kiosk would be sited on a pavement on the northern side of George Street, some 0.6 metres back from the kerb. It would be a short distance east of the junction of George Street with Dingwall Road and a short distance west of East Croydon Station. There is a large, modern two-storey building on the corner plot at this junction, known as Boxpark, and the kiosk would be sited part way along the southern front elevation of this building. Boxpark is constructed largely from black metal with glazed elements, and the proposed kiosk, by virtue of its modern design, predominantly glazed and with coated metal frame, would appear in character with this.
10. The Council contends that the proposed telephone kiosk conflicts with the aim of maintaining a visually open and uncluttered public realm. I note that there is an advertising hoarding and public notice display on the pavement closer to the Station. However, the kiosk would be sited away from this existing street furniture on a portion of pavement where the only structures and features are litter bins and the poles carrying the overhead cables for the Tram lines that run along this part of George Street. On this basis, I do not consider that the kiosk would result in a cluttered appearance to this part of the street.
11. By virtue of its location, it is likely that pedestrian traffic past the proposed kiosk would be heavy at peak times. However, the pavement is very wide at the point where the kiosk would be sited, and I do not consider that it would represent a danger to pedestrian safety, since there would appear to be adequate space for pedestrian movement past it. The appellants contend that the existing street furniture provides a buffer between pedestrians and the tramline, and that the resulting physical separation would be an improvement to pedestrian safety in this area. In this case, and given the configuration of the street furniture, I concur with that view, in that the kiosk would be likely to encourage pedestrians to keep further away from the edge of the pavement and use the wide area between the kiosk and the front elevation of Boxpark.
12. In conclusion, the proposed kiosk would appear as a relatively isolated and visually sympathetic element in the street scene at this point. It would not be dominant in the context of its surroundings, and it would not detract from the appearance of the area around Boxpark. It would be set within a relatively broad and unrestricted part of the pavement, and it would not, on this basis, be harmful to the established pedestrian flows in the area. I find, therefore, that its siting and appearance would not be harmful to the area and this justifies the grant of prior approval. Accordingly, I allow the appeal.

### *Appeal B*

13. The proposed kiosk would be sited on a pavement on the southern side of Lansdowne Road, over 3 metres back from the kerb, and a short distance west of its junction with Dingwall Road. It would be to the side of Carolyn House, which is No 26 Dingwall Street. Adjacent to Carolyn House is a Cooperative store with a Premier Inn above. There is a row of semi-mature trees within the pavement area to the front of the cooperative shop and the kiosk would line up with this row. There is a limited amount of street furniture on the pavement in the vicinity, including litter bins, a communications cabinet, street lighting and seating. On the opposite side of Dingwall Street is a pedestrian route to East Croydon Station, and there would appear to be moderately heavy pedestrian

traffic in the vicinity of the proposed kiosk site, although the pavement is very wide and relatively uncluttered at this point, and the kiosk would be unlikely to restrict or harm free pedestrian movement along this part of the road.

14. Lansdowne Road and Dingwall Street are busy, relatively narrow roads, albeit with wide pavements. Apparently these roads form part of the proposed Tramlink Dingwall Road Loop Extension and the Council contends that the proposal would prejudice changes to the transport infrastructure within the town centre. Policy SP8.8 of the Council's LP indicates that the Council will prioritise tram infrastructure provision and network improvements. In this case, the siting of the proposed kiosk could prejudice such provision and improvements to the system.
15. The appellants contend that the proposed location of the kiosk is appropriate as it aligns with existing street trees, which are unlikely to be moved in the event that the carriageway is widened. Moreover, there is 3.33m between the kiosk and the kerb edge, providing space for future infrastructure upgrades to the road, where necessary. They also contend that there is no certainty that the project will go ahead, although it would appear that the Council is still working towards this end.
16. At this stage, it is not possible to rule out that the final detailed design of the proposed new tram line, as it turns from Dingwall Street into Lansdowne Road, would require engineering operations and carriageway alterations that would be affected by, and also affect, the siting of the proposed kiosk. On this basis, the presence of the kiosk could be detrimental to the improvements to the tram system, and that it would conflict with Policy SP8.8 of the LP insofar as it is relevant to the siting of the kiosk.
17. In conclusion, I find that the proposed kiosk would be significantly detrimental to the future provision of tram infrastructure provision and public transport improvements in this part of Croydon. Its siting would, on this basis, be harmful to the area and I therefore dismiss this appeal.

*J D Westbrook*

INSPECTOR