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## Appeal Decisions

Site visit made on 29 November 2018

**by Martin Chandler BSc MA MRTPI**

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

**Decision date: 20 December 2018**

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### **Appeal Ref: APP/Z5630/W/18/3209582**

#### **Pavement outside 2 - 6 Fife Road, Kingston upon Thames, KT1 1SZ**

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Neil Scoresby on behalf of British Telecommunications Plc against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
  - The application Ref 18/12394/TEL, dated 4 May 2018, was refused by notice dated 26 June 2018.
  - The development proposed was originally described as: "Prior Approval and Express Advertisement Consent is sought for the removal of up to two (2) existing BT payphones and the installation of one (1) InLink with excess space returned to the community".
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### **Appeal Ref: APP/Z5630/H/18/3209488**

#### **Pavement outside 2 - 6 Fife Road, Kingston upon Thames, KT1 1SZ**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Neil Scoresby on behalf of British Telecommunications Plc against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
  - The application Ref 18/12408/ADV, dated 8 May 2018, was refused by notice dated 26 June 2018.
  - The advertisement proposed is two digital LED display screens, one on each side of the InLink.
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## **Decision**

1. Appeal A is allowed and prior approval is granted under the provisions of Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of the installation of 1 InLink following the removal of 2 existing BT payphones with excess space returned to the community at Pavement outside 2 - 6 Fife Road, Kingston upon Thames, KT1 1SZ in accordance with the terms of the application Ref 18/12394/TEL, dated 4 May 2018, and the plans submitted with it.
2. Appeal B is also allowed and express consent is granted for the display of two digital LED display screens, one on each side of the InLink as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations.

## **Procedural Matters**

3. As set out above, there are two appeals on this site. Appeal A relates to a prior approval process and Appeal B relates to advertisement consent. I have considered each proposal on its individual merits. However, to avoid duplication, I have dealt with the two schemes together, except where otherwise indicated.
4. In allowing Appeal A, I have amended the description of development. The description taken from the original application form made reference to the removal of up to 2 phone boxes but as detailed on drawing number KTN-002-SP-V1 Rev A these boxes are to be removed. Therefore, in the interests of clarity and precision, I have deleted the reference to "up to 2 existing BT payphone boxes".
5. The address set out above is also different to that which is on the original application form. The address on the application form only provided a grid reference whereas the address on the appeal form provides a more clear address. Therefore, in the interests of clarity I have decided to use the address provided in the appeal form.
6. I am satisfied that in changing the description of development and changing the address, the interests of the main parties have not been compromised.

## **Main Issues**

7. The main issues are: i) the effect of the siting and appearance of the proposed development on the surrounding area, including the effect on visual amenity; and ii) the effect of the proposal on public safety.

## **Reasons**

### *Siting and appearance*

8. The appeal site is located on a pedestrianised road within the town centre of Kingston upon Thames. The site is currently occupied by 2 payphones. In the immediate context of the appeal site there is an existing digital advertising sign located closer to Clarence Street as well as some benches and lampposts. Whilst the presence of street furniture is therefore an established characteristic of the surrounding area, the existing furniture does not overwhelm the road. It has a lesser presence than elsewhere within the town centre and the result is the creation of a visually calm environment.
9. The replacement InLink kiosk would be taller than the existing phone boxes. It would also introduce digital advertising instead of the more traditional advertising found on the existing phone boxes. Therefore, due to its height and the presence digital advertising, the kiosk would be visually prominent. However, the kiosk would also have a slender profile and would be comparable in form and appearance to the existing digital signs found elsewhere in the town centre. In addition, the footprint of the proposal would be smaller than the 2 payphones that it would replace.
10. The proposal would be experienced in the context of the existing street furniture. However, as identified above, this does not overwhelm the road. Therefore, due to the smaller footprint and slender profile of the proposed kiosk, the proposal would not be visually intrusive or create visual street

clutter. The proposal would also not represent an incongruous addition due to its similarities with the existing digital signs within the town centre.

11. Accordingly, I conclude that the siting and appearance of the proposal would have an acceptable appearance on the surrounding area, including its visual amenity. Consequently, the proposal would accord with Policies CS8 and DM10 of the Royal Borough of Kingston upon Thames, Local Development Framework, Core Strategy (2012) (CS). Taken together, these policies seek, amongst other things, development proposals which achieve a more attractive, sustainable and accessible environment and avoid located structures where they will be visually intrusive. These policies are also consistent with Paragraph 132 of the National Planning Policy Framework.

#### *Public safety*

12. The Council has raised no concern in relation to the effect of the proposal on public safety. The kiosk would be located in a pedestrianised environment and would be experienced in the context of other similar street furniture. It would have a lesser presence in terms of footprint and the digital advertisements would be discreet from the adjacent road network so as to not attract the attention of drivers. Furthermore, due to the reduced footprint of the proposal compared to the existing payphones, I am satisfied that pedestrian and cycle routes would not be adversely affected.
13. Although I note the concerns from interested parties in relation to vandalism and anti-social behaviour, I have no evidence before me to suggest that the proposal would give rise to this. The proposal would be similar in form to existing street furniture and I have not been made aware of any concerns in relation to these structures. Therefore, based on the evidence that I have before me, I have no reason to disagree with the conclusions of the Council on this matter.
14. Consequently, I conclude that the proposal would not harm public safety. I have taken into account Policies CS8 and DM10 of the CS which seek, amongst other things, development proposals which achieve a more attractive, sustainable and accessible environment and incorporate principles of safe design. Given that I have concluded that the proposal would not harm public safety, it does not conflict with these policies.

#### **Other Matters**

15. Although much of the proposal would be for casing or covering that would provide the opportunity for the placing of advertisements, I have no specific evidence before me to confirm that the proposed casing or covering would not be reasonably required for the purposes of the electronic communications apparatus. Despite the concerns in relation to the size of the kiosk, the proposal would accord with the requirements of Class A.1 of Part 16 of the 2015 Order which relates to ground-based apparatus.
16. Therefore, I am satisfied that the appellant does benefit from the permitted development rights established by Part 16 of the 2015 Order. Although the InLink kiosk may not be directly operated by British Telecommunications Plc, there is nothing within the 2015 Order to suggest that such an arrangement would not constitute permitted development.

17. I note the concerns in relation to privacy and how sensitive data might be handled. Whilst this is an important consideration for the operators, it goes beyond the remit of Part 16 of the 2015 Order and I am therefore unable to give any weight to this matter.
18. The Council has suggested conditions for the prior approval proposal. However, the 2015 Order sets out clear requirements for the consented works. Paragraph A.3 (8) states that where prior approval has been given, this must be carried out in accordance with the details approved and paragraph A.3 (10) requires development to begin not later than the expiration of 5 years beginning with the date on which the approval was given.

### **Conclusion**

19. For the reasons identified above, Appeal A and Appeal B are allowed.

*Martin Chandler*

INSPECTOR