



INFOCUS PUBLIC NETWORKS LTD

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Planning Department
London Borough of Hillingdon
Civic Centre
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04/12/2016

Dear Sir/Madam

Installation of electronic communications apparatus on the Highway by an electronic communications code operator: The Town and Country Planning (General Permitted Development) Order 2015, Regulation 3 and Part 16 of Schedule 2¹ ['the Regulations']; Communications Act 2003, section 106.

Infocus Public Networks Ltd ('the Company') is an electronic communications network provider which has been granted statutory powers by the Communications Regulator (Ofcom), the electronic communications code ('the Code') under section 106 of the communications Act 2003.

The Company intends to install and maintain electronic communications apparatus, namely a public payphone, at the following location and applies to your Council as Local Planning Authority for prior approval on matters of siting and appearance in accordance with Part 16 of the Regulations and the guidance contained in the National Planning Policy Framework "NPPF".

Payphone: Pavement In front of 174 High Street Uxbridge UB8 1EF

In support of the application and in accordance with the Regulations, I enclose:

- A large scale plan indicating the proposed location of the public payphone,
- a technical specification of the payphone to be installed,
- and my company's cheque for the required fee of £385

Also enclosed, although not a requirement under the Regulations, are a photograph of the site with the location of the intended installation indicated by the letter X, and a smaller scale location plan.

The status of the application

You will appreciate that this is not an application for planning permission. The installation and maintenance of electronic communications apparatus on the Highway by an electronic communications operator enjoys already full planning permission by virtue of Regulation 3(1) of the Regulations, subject to applying to the local planning authority for prior approval on matters relating only to siting and appearance. You may be aware also that the Court of Appeal has decided recently that such matters of prior approval on siting and appearance should be regarded as analogous to reserved matters following the granting of planning permission². In other words the principle of the development is not in issue.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015: S. I. 2015/596

² Murrell v Secretary of State for Communities and Local Government & Broadland District Council [2010] EWCA cir 1367 CA civ div

You will wish to refer, in particular, to paragraphs 42-46 of the NPPF.

The design of the payphone kiosk

These kiosks are of a modern design and will be installed in black to blend in with the existing street furniture. In particular the modern type of bus shelter which is of a very similar design.

The older type of street payphone kiosk, the K2, or the K6 as designed by Sir Giles Gilbert Scott can no longer be installed in the UK, since they do not comply with disability regulations for the design of public payphones as issued by the Communications Regulator, Ofcom³.

The type of payphone which is the subject of this application for prior approval is entirely suitable for use by persons with a disability and can be entered and exited easily by wheelchair users without assistance. The payphones are wider than the traditional type of payphone. They have to be in order to accommodate wheelchairs. However, the base area of the kiosk is less than the 1.5 metres maximum in order to qualify as permitted development as prescribed by the Regulations.

With large windows and a completely open side facing inwards away from the Highway, these payphones, unlike the traditional type of payphone, are completely visible to the public and to surveillance cameras, making them quite unsuitable for the facilitation of anti-social or criminal activities. Because of their design and complete transparency these payphones do not facilitate easily advertising by sex workers. Indeed they would appear to be the only payphones which do not suffer from this problem.

Despite the growth in the use of mobile phones, there remains a need for public payphones, particularly for minorities within urban communities. Ethnic minorities rely on public payphones to contact relatives overseas and many tourists use public payphones to make calls, using international telephone cards. Every payphone must by law provide facilities for emergency calls, operator assistance and directory inquiries. Operator services and emergency calls must be provided free of charge. Furthermore, a recent report on the work of Childline has reported that a significant proportion of all calls by children are made from public payphones.

On a related matter, as you may be aware the High Court has decided recently that advertising on payphones is subject to a complete and self-contained legal code and that in considering applications for prior approval on matters of siting and appearance, local planning authorities are not entitled to take into account potential advertising on payphones⁴.

Environmental and conservation factors

These new modern payphones are powered by solar energy and rely on mobile telephone for connection to other networks. While an opening notice will be served on your Highways Department prior to the installation of the payphone, virtually no invasive work will be required either on the pavement, or on the adjacent highway. The payphone kiosk will simply be affixed securely to the pavement surface and will operate independently without the need for support from any utility services.

3 See CONSOLIDATED VERSION OF GENERAL CONDITIONS

As at 30 July 2010 (including annotations) as published by the Office of Communications (Ofcom) as a Schedule to the Notification under Section 48(1) of the Communications Act 2003, in particular Condition 6.3(a)(i) which can be found at: <http://stakeholders.ofcom.org.uk/binaries/telecoms/ga/cvogc300710.pdf>

4 Infocus Public Networks Ltd v The Secretary of State for Communities and Local Government The Mayor and Commonality of the Citizens of London [2010] EWHC 3309 (Admin)

Criteria for site selection

In submitting these applications for prior approval my Company has considered carefully the contents of the decision letters in respect of recent appeals made to the Planning Inspectorate against refusal of prior approval by local planning authorities, some successful, others not. We have selected the site of this application for prior approval having regard to the criteria which the Planning Inspectors have applied to the appeals. We believe that the site chosen meets all the factors which Planning Inspectors have taken into account in deciding to allow such appeals. In particular where the Inspector considered that the requirement to make available the electronic communications service outweighed any considerations of potential harm in respect of siting and appearance.

We have also had regard to the letter of August 2010 signed jointly by the Secretaries of State for Transport and for Communities and Local Government on such matters. We consider that in selecting this particular site we have taken into account their aspirations for selecting sensitively any such sites for the location of street furniture and where possible the avoidance of excessive clutter.

Specific Details on the site Pavement In front of 174 High Street Uxbridge UB8 1EF

This application is for the positioning of a public payphone in Uxbridge town centre.

It is positioned outside the railway station in a predominantly commercial pedestrianized area surrounded by shops and restaurants. The pavement at this point is 17.2m wide leaving more than enough room for pedestrian traffic and as far as we can ascertain there are no possible obstructions/interference to either drivers or pedestrians. On the immediate pavement in this area there are some bollards and benches. The kiosk would be positioned 'in line' with these benches leaving more than enough room for any pedestrian traffic. Nearby there are existing payphones. These existing payphones operated by BT and Arqiva cannot accommodate a wheelchair user and the minimum call cost is significantly higher than the proposed kiosk. In this context we should I think point out that in considering this issue at the appeals stage and where the need for additional payphones was challenged by objectors, the Inspector attached little weight to such objections recognizing that PPG8 made it clear that consumers were entitled to choice in the availability of the communications services they wished to use.

In all the circumstances therefore we believe that this application meets all the criteria and that it should be acceptable to your Council on siting and appearance.

Will you please confirm that the proposed installation of a public payphone as described in this letter and in the documents attached hereto and at the location described therein is acceptable on matters of siting and appearance and that prior approval for the development is not required, or if required is granted.

We look forward to hearing from you.

Yours faithfully



D Parkin

For and on behalf of Infocus Public Networks Ltd

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Registration: 6463216 VAT 930 5420 54. Service of documents by e mail is not accepted.

Normal office hours 9.00am-16.30 Monday – Friday except public and other holidays