

Application Number	14/0320/FUL	Agenda Item	
Date Received	16th May 2014	Officer	Mrs Angela Briggs
Target Date	11th July 2014		
Ward	Market		
Site	Payphone Kiosk Adjacent Church Of St Mary The Great St Marys Street Cambridge Cambridgeshire		
Proposal	Change of use of 2no. phone boxes to 2no. retail kiosks (A1) selling either tea/ coffee, ice cream, shoe shine or souvenirs.		
Applicant	Mr Steve Beeken 6 Kensington Gardens Brighton BN1 4AL		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The proposed use would contribute to the vitality and viability of the City Centre; <input type="checkbox"/> The proposed change of use would not have a detrimental impact on the character or appearance of the Conservation Area; <input type="checkbox"/> The proposal would not have a significant impact on highway safety.
RECOMMENDATION	APPROVAL FOR TEMPORARY PERIOD OF 9 MONTHS

1.0 SITE DESCRIPTION/AREA CONTEXT

1.1 The site is to the rear of the Church of St Mary the Great, which is a Listed Building, on Market Hill, and close to the corner with the Peas Hill junction. The site is occupied by two iconic 'K6' red phone boxes. Adjacent, are two more phone boxes which

are identical and make up the group of four. The phone boxes are currently in operation and are accessed from Market Hill. The surrounding area is predominantly retail in character, including the market stalls in the market square. Behind the phone boxes are the black iron railings that bound the church. There is a gate along this elevation, for access to the bins only. The main entrance to the church is via St Edwards Passage.

- 1.2 The site falls within the Central Conservation Area and therefore the Historic Core Conservation Appraisal is relevant. The structures are also Grade II Listed.

2.0 BACKGROUND

- 2.1 The development, if approved, would be novel to Cambridge and is part of the reason why it is being reported to Planning Committee. It involves the alternative use of 2 iconic K6 payphone kiosks and is part of a growing UK trend to find alternative uses for them. The agent has confirmed that planning permission has already been granted in other cities such as Brighton, Nottingham, Plymouth and Blackpool for similar uses to those proposed here.

THE PROPOSAL

- 2.2 There are two applications in relation to this site. The full application, Ref: 14/0320/FUL, seeks planning consent for a change of use of 2no. phone boxes to 2no. retail kiosks (A1) selling either tea/coffee, ice-cream, show shine or souvenirs. The sister application, Ref: 14/0806/LBC is for Listed Building Consent.
- 2.3 The proposals do not seek to remove the existing phone box structure. The proposal includes minor alterations to the door lock mechanism and the glazing, for security measures. Externally, the phone boxes would remain as existing in terms of size, colour and detailing (including HRH's crown logo), and even the word 'Telephone' at the top of the entrance. Internally, the telephone unit and its associated equipment would be removed, and a stand-alone modular unit inserted, which would contain the retail goods. These modular units are positioned on in-built rollers with no fixings to the existing phone box shell.

2.4 The application is accompanied by the following supporting information:

1. Design & Access Statement/Heritage Statement;
2. Plans

2.5 The application is brought before Committee because this proposal involves development that is novel to the City of Cambridge and affects two iconic Listed structures within the City Centre that has drawn objection from third parties and from the Principal Conservation and Design Officer.

2.6 An amended plan was submitted on 8th September 2014, to show the position of the drop-down seat in the down position and the position of the sink, when in use. These two elements would not necessarily be out for the duration of the service, and would be used as and when required. The door of the kiosks would need to remain open during service times. The sink and the seat would be tucked away within the module when the retail kiosks close for business.

2.7 The proposed retail kiosks would function in two ways: They would be staffed on a daily basis and therefore would assist in the vending and sale of items from the kiosks. The kiosks would operate from 08:00hrs to 18:00hrs Monday to Saturday and from 09:00hrs until 18:00hrs on Sundays and Bank Holidays. It is also possible to place an order via a mobile phone app, or online, and pick it up on your way. A typical example given, would be: *“to get off your train at Victoria Station around your normal time and you could pay via your mobile phone knowing your daily walk would take you past the kiosk within the next 10-15mins and it will be ready waiting for you to collect, “Grab & Go”. No queuing and the incentive would be to offer this at a 5% discount when purchasing via your smart phone or online”.*

3.0 SITE HISTORY

3.1 None relevant.

4.0 PUBLICITY

4.1 Advertisement: Yes
 Adjoining Owners: Yes
 Site Notice Displayed: Yes

5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN		POLICY NUMBER
Cambridge Plan 2006	Local	3/1 3/4 3/7 3/11 4/10 4/11 4/13 6/5 8/2

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012 National Planning Policy Framework – Planning Practice Guidance March 2014 Circular 11/95
Supplementary Planning Guidance	Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide Supplementary Planning Document (February 2012)

Material Considerations	<u>Area Guidelines</u> Cambridge Historic Core Conservation Area Appraisal (2006)
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5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, there are no policies in the emerging Local Plan are of relevance.

6.0 CONSULTATIONS

Cambridgeshire County Council (Highways Development Management)

- 6.1 Object. Telephone kiosks are allowed to be placed upon the public highway by telecommunication companies under their rights as statutory undertakers in order that they may provide a public service. As this public service is to be removed, these structures will simply become private structures on the public highway and will need to be removed as the Highway Authority will not license such a use. Therefore, for the avoidance of doubt, the Highway Authority recommends that the proposal be REFUSED planning permission. Reason: Impact upon the safe and efficient use of the public highway. If the conversion takes place, the Highway Authority will use its powers to remove the structures from the public highway. The applicant should be informed of this resultant action.

Further comments:

British Telecom are a Statutory Undertaker, which allows them to place telecommunications apparatus and plant within the public highway.

The proposal removes the telecommunication function of the structure, which would remove the right of British Telecom to place a structure on the public highway. The structure would then become an illegal structure on the public highway, unnecessarily occupying the public highway.

In essence a shopkeeper cannot erect a shop on the public highway, and that is what is proposed. The Highway Authority would be duty bound to remove it.

Furthermore the shop would have a door that opens outwards over the public highway, a straightforward breach of the Highways Act. British Telecom can do it for a public call box, but not a shop. We would be forced to fix the door shut, (I would not resort to the alternative of removing the door of a listed structure).

Our duties do not take into account listing and so this has potential to become a problem to the Authorities. I assume that you wish to retain the structure as it is a listed structure in the setting of a Listed Building, but it would become a breach of highway law, requiring enforcement.

Head of Refuse and Environment

- 6.2 No objection subject to a condition relating to construction hours.

Head of Urban Design and Conservation

- 6.3 The Head of Conservation team makes the following comments:

The application relates to two Grade II Listed telephone kiosks within the Central Conservation Area. The concerns are the impact of the proposal on the special interest of the listed buildings; on the setting of the listed Great St Marys' church; and on the character or appearance of the Conservation Area.

Existing:

The two telephone kiosks affected are within a line of four (three of which are listed) beside the railings of Great St Marys' church on its St Mary's Street side. They have metal frames and margin glazing to the windows and doors. All four currently contain functioning phone equipment.

Proposals:

The proposals are to change the use of two kiosks from pay phones to retail and in doing so, removing the telephone equipment. It is understood that the equipment itself is not covered by the statutory listing.

Proposed works include the replacement of the existing glass with 4mm thick thermally toughened soda lime silicate safety glass for security reasons. Glazing by the manufacturers concerned has evidently been used in other listed phone boxes. There are no concerns with this aspect of the application subject to a sample of the glass being approved.

The unit to be installed within the kiosk is a self-contained modular unit which will not have any fixings to the carcass or the floor plate of the phone box.

A door lock would also be installed as shown on the submitted drawings.

The kiosks currently have functioning phone equipment and are available to the public to use. National Planning Practice Guidance notes that "It is important that any use is viable, not just for the owner, but also the future conservation of the asset." The effect of the proposals may be regarded as curtailing the optimum viable use of these listed buildings. However, the submitted letter of support from BT Payphones is noted.

Their external appearance would not be significantly changed – at least when closed. However, the phone box doors would have to be propped open for a good deal of time during trading and it is noted that a drop-down seat and swivel-out basin are part of the modular unit to be installed. D & A Statement:

"6.8 The modular unit incorporates a drop-down seat and swivel-out basin for staff use. When not in use, these items can

be withdrawn into the modular unit, and the whole unit is encased with doors"

Discussion:

Impact of the proposal on the special interest of the listed buildings;

National Planning guidance refers (NPPF para 131) in determining planning applications, to the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Their significance as individual listed buildings may be different to their significance as elements within the conservation area. Their significance as examples of the design may be little affected in terms of their appearance *at least whilst the doors are closed*. At the time of writing though, information on the modular unit incorporating a drop-down seat and swivel-out basin had been requested and was awaited from the applicants. This unit could significantly impact the appearance of the listed buildings particularly if it is likely to require the door to be propped open for periods. It is hoped this information will be available at the time the applications are determined as the impact on appearance cannot be fully assessed otherwise.

The effect of other alterations are limited to the alterations (lock and glass) noted above.

Other aspects of their significance include their use. Their use and appearance are clearly closely related as the boxes are intended to highlight the availability of a payphone in the surroundings in which they stand. This is how they are considered significant by many. The NPPF criterion of viable uses should also be considered. These particular phone boxes are understood to be still in use.

Impact on the character or appearance of the Conservation Area.

The impact on the established character and appearance of the Conservation Area. 4/11. The phone boxes are a characterful part of views toward the market along St Mary's Street and vice versa and are shown in the Historic Core Conservation Area Appraisal. The telephone boxes are notable for being part of the

line of four standing together in the market area of the city centre. They make a positive contribution to the appearance of the conservation area. They also attract a good deal of attention from visitors to the city centre. However, the above matters in relation to the telephone boxes as Listed Buildings are also considered to also relevant to their role in the conservation area.

The regular maintenance proposed (including painting) would be a benefit (Though all four boxes were painted just before the Tour De France came through Cambridge). There might be said to be little public benefit otherwise – coffee and ice cream not being in short supply in the vicinity. However, the painting if applied only to two of the four kiosks could result in an incongruous difference in the appearance of the group.

Impact on the setting of the Listed Great St Mary's Church.

Street trading is a characteristic feature of the context and the impact of the proposals on the setting of Great St Mary's would arguably not be harmed in this respect. It is also a consideration that the kiosks stand next to a side gate in the church railings (ie not on the particularly sensitive west or south entrance sides of the church) that appears only to be used for wheelie bins.

Conclusions

Regarding the Planning application, the existing use is the original use the boxes were designed for and is evidently at least sufficient to maintain the telephone boxes in use. Would the proposed new use be more likely to be an optimum viable use (ref NPPF para 134 (where a proposal will lead to less than substantial harm, this should be weighed against the public benefits, including securing its optimum viable use))?

What is the visual impact of the modular unit incorporating a drop-down seat and swivel-out basin? This will significantly affect whether the listed building application is consistent with Cambridge Local Plan Policies 4/10 (Listed Buildings). If the resultant change to the appearance of the listed buildings (even if during the hours of operation of the proposed business) is regarded as sufficiently harmful, it may be considered that proposed use is not "consistent with their conservation." It is hoped this information will be available at the time the

applications are determined as the impact on appearance cannot be fully assessed otherwise.

Conservation Officer comments on the amended plan:

- 6.4 The drawing now submitted shows the drop-down seat and sink in their in-location positions and in their in-use positions.

It is clear that self-contained modular units effectively fill the telephone kiosks – the operative remains outside the kiosk. The drop down seat would extend out of the kiosk as would the sink when in use. Evidently then, the doors of the kiosks would often be open to allow the products to be dispensed or the operative to sit or use the sink.

This contrasts with the telephone kiosks currently having to be entered to use them and the doors being closed generally. Part of the significance of the Listed buildings can be said to be how they are perceived and experienced. In the proposed use, their character would be changed by the lack of public access into the kiosk; by the visible occupancy of the kiosks by the modular unit; and by the uncharacteristic projection outside the kiosks of the sink/seat unit. The meaning and perception of the Listed buildings would be changed and their significance harmed.

Against the harm created is a consideration of the benefit of the employment of the operatives. However, Planning guidance requires that where there is harm to a heritage asset that harm be given “considerable weight” and in this case I consider the harm to the Listed buildings is not outweighed. This is reinforced given the iconic nature of this group of telephone boxes in their relationship to their historic surroundings.

The proposal is not consistent with Cambridge Local Plan Policies 4/10 (Listed Buildings). A clear understanding of the buildings importance has not been demonstrated and the proposed works would harm aspects of the buildings special interest.

7.0 REPRESENTATIONS

- 7.1 The owners/occupiers of the following addresses have made representations:

- 7A Adams Road
- 30 Callander Close
- 6 Perse Almshouses, Newnham Road
- 80 Hills Avenue
- Great St Mary's, The University Church

7.2 The representations can be summarised as follows:

- Increased congestion as a result of people queuing;
- City Centre bins unable to cope with additional rubbish;
- Removal of the four public telephones will reduce provision to those who do not own mobile phones;
- No site notices to make public aware of the applications, nor to the surrounding shop traders or market stall holders;
- What is the need?
- This change of use would have a negative effect in a Conservation Area and the iconic phone boxes are a major attraction because of what they are;
- Inappropriate location for the sale of refreshments or other commercial activities;
- Does not preserve or enhance the unique character of Cambridge.

7.3 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

8.0 ASSESSMENT

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Principle of development
2. Context of site, design and external spaces
3. Impact on Conservation Area and Listed Building
4. Delivery and Refuse arrangements
5. Highway safety
6. Third party representations

Principle of Development

8.2 The concern is whether this retail proposal seeks to maintain and enhance the vitality and viability of the City Centre, as

required by Policy 6/5 of the Local Plan. The development, if approved, would result in two new retail units, albeit, occupying an existing structure, selling particular items as specified within the proposal description. In my view, I consider that the change of use to two retail kiosks would complement the existing surrounding retail environment and would make a positive contribution towards the vitality and viability of the City Centre.

- 8.3 In my opinion, the principle of the development is acceptable and in accordance with policy 6/5 of the Cambridge Local Plan (2006).

Context of site, design and external spaces

- 8.4 The area surrounding the site is predominantly retail in character. However, the phone boxes are also in close proximity to St Mary's the Great Church. In terms of the change of use, the proposal would not be introducing any additional physical development, other than a "drop-down seat and a swivel-out basin for staff use" (see paragraph 6.8 of the Design & Access Statement). In terms of design, the appearance of the phone boxes would be altered as the phone unit would be removed and replaced with a modular unit, which would sit inside the phone box structure. This modular unit measures 600mm by 600mm and would be more noticeable than the phone unit currently is, and therefore may result in the phone boxes appearing more solid along the street scene. However, in my view, although it is likely to change the character of the phone box, I do not consider that the modular unit would seriously harm the visual character of the area and warrant refusal of the application on this basis.
- 8.5 In terms of external spaces, currently, the phone boxes operate as single self-contained structures, in that it is designed to be used by one person at a time. Their function is such that a user would close the door whilst making a phone call, for privacy, and against the hustle and bustle of the market square. The iconic design of these phone boxes mean that users are likely to close the door behind them whilst making a phone call, although they are not obliged to. Nonetheless, it is recognised that these phone boxes are "tourist attractions" and therefore also contribute to the uniqueness of the City of Cambridge.

- 8.6 The application proposes the change of use to two of the four phone boxes. This would mean that the remaining two would continue to provide a telecommunication service to the public. I would be more concerned about the loss of all four phone boxes to retail, or other, uses, because of their popularity and uniqueness. I am not concerned about the functionality and compatibility of the group of phone boxes and consider that the remaining two phone boxes would not be compromised by the proposed change of use for retail purposes.
- 8.7 I understand that the proposal would be novel to the City and that these phone boxes are iconic and are popular with tourists and residents. I am of the view that if Members are minded to approve the application, I would recommend granting a temporary permission for 9 months in the first instance. I consider this to be a reasonable amount of time to enable the council to monitor the kiosks and their impact on the surrounding environment. I therefore recommend a condition (condition 1) to permit the change of use to retail use for 9 months only.
- 8.8 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7, 3/11, 3/12.

Impact on Conservation Area and Listed Building

- 8.9 The Conservation Officer does not support the proposal. I agree that the character of the listed buildings would change, in so far as they would no longer function as a telephone box. However, the skeletal structure and the detailing would remain, which in my view, is how these structures are considered to be 'iconic'. I would argue that the telephone equipment inside is not considered to be of any architectural merit and therefore its removal would not, specifically, in my view, harm the historic meaning or attraction of the listed structures. The colour and external appearance of the telephone box structures would be retained, so that when visitors walk by, the 'K6' telephone boxes are still recognised as a group and admired in the same way in which it was intended.

In my view, it is the internal function that would make the most significant difference, and their effect on the character of the Conservation Area and the historic assets. As I have already mentioned, the modules are self-contained and free-standing.

When the door is open, the module will be visible from the public domain. They would be providing a retail service within the confines of the 'iconic' historic asset, but the 'K6' attraction would still be acknowledged by visitors and passers-by. The integrity of the phone boxes, as historic assets within the Conservation Area, in my view, would not be lost. When the door is closed, you will see the module behind the door, but the visual appearance of the 'K6' structures would prevail and, in my view, continue to preserve the character of the Conservation Area.

- 8.10 I acknowledge the Conservation Officer's comments about the impact on the Church of St Mary the Great, and I would concur with his view that the proposal is unlikely to have a significant impact on the Listed Church.

Delivery and Refuse Arrangements

- 8.11 The kiosks will have deliveries on a daily basis. Waste removal would be part of the same daily process, whereby the operators will remove any waste at the end of each day. Due to the size of the kiosks, stock levels are unlikely to be high and therefore it is likely that delivery vehicles would be no bigger than a transit van. Delivery would be once a day and would occur in accordance with existing delivery time restrictions.
- 8.12 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 3/12.

Highway Safety

- 8.13 In terms of highway safety, the Highways Authority recommend refusal. From their comments, the proposed retail kiosks would contravene their highway regulations, and could potentially be removed. The reason they have given is "Impact on the safe and efficient use of the public highway". However, in their comments, no explanation is given as to why the kiosks would compromise public safety. Further comments from the Highway Authority suggest that the permanent open door feature would be problematic, whilst the kiosk is in use. It is also stated that the Highways Authority "*would not resort to the alternative of removing the door of a listed structure*". The kiosks would be staffed during normal hours, and then the door will be locked. In my view, if the kiosks are staffed, I would expect that member

of staff to be aware of any hazard resulting from the door being left opened and be in a position to manage this situation, if necessary. The kiosk door is not wide enough, in my view, to cause a major incident, in its open state, nor would it severely obstruct pedestrians. In my view, it would be difficult to argue that, from a planning perspective, the proposed kiosks would have a significant impact on highway safety.

8.14 All service activity takes place within the swing of the door, so no additional highway space is used up, other than the physical door itself. Where phone boxes are still being used for their original purpose, they still have the same swing door. There are no planning restrictions on the number of users in any one day or on the number of times that the door may be opened. Furthermore, when any one (or more) people are inside the phone box making a call, there is no restriction on the numbers of people that may be waiting outside the box to use the phone or waiting for their companion(s).

8.15 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

Third Party Representations

8.16 I have covered comments relating to the impact on the Conservation Area above, and will report more on the amendment sheet. I have the following comments on the other issues raised:

Increase in congestion:

8.17 I agree that the proposed use would attract more people around this area as the kiosks would be offering a service to the public. However, this area is already a busy thoroughfare and there is always congestion around this part of the city centre at various times, such as when Buskers are playing, or groups gathering, cycles parked on railings and lampposts. Users/customers would gather for a short while, make their purchase, and then move on. I do not consider that any congestion would be significant given the nature of the kiosk.

Removal of the four public telephones will reduce provision to those who do not own mobile phones

- 8.18 None of the phone boxes are to be removed. The application relates to two phone boxes and their proposed change of use.

No site notices to make public aware of the applications, nor to the surrounding shop traders or market stall holders

- 8.19 Two site notices were posted on the lamppost, dated 22nd May, opposite the site to advertise both applications, and an extensive consultation with neighbouring units was carried out. The application was also advertised in the Cambridge Evening News on 30th May 2014.

What is the need?

- 8.20 The principle of the development is explained in paragraph 8.2 of this report. I concluded that I considered that the proposed change of use was acceptable in policy terms.

Inappropriate location for the sale of refreshments or other commercial activities

- 8.21 The kiosks would be located close to other retail units, and therefore I do not consider that their location would be inappropriate. The retail goods are quite restricted so it is unlikely that this could be expanded. A condition is recommended to restrict the sale of goods to ice cream, hot beverages and souvenirs/shoe shine (condition 2).

9.0 CONCLUSION

- 9.1 In conclusion, I consider that the proposed development for a change of use to two phone boxes for A1 retail use, is acceptable, subject to a condition restricting planning permission to 9 months in the first instance, to enable the Local Authority to monitor and assess the impact of the retail use on the surrounding environment.

10.0 RECOMMENDATION

APPROVE FOR A TEMPORARY PERIOD OF 9 MONTHS and subject to the following conditions:

1. The use hereby permitted shall be discontinued on or before 31st July 2015 .

Reason: To enable the local planning authority to assess the impact of the use on the amenity of the surrounding area (Cambridge Local Plan 2006 policies 3/1, 3/4, 3/12 and 8/2).

2. The retail kiosks, hereby approved, shall be restricted only for the selling of the following retail goods: Ice Cream, hot beverages, souvenirs and/or shoe shine. No food shall be handled or prepared on the premises at any time and the selling of alcohol or alcoholic goods is strictly prohibited.

Reason: For the avoidance of doubt and to protect the vitality and viability of the City Centre (Cambridge Local Plan 2006, policy 6/5)

3. The retail kiosks, hereby permitted, shall operate between the following times only: Monday to Friday 08:00hrs to 18:00hrs, Saturday 08:00hrs to 19:00hrs, Sunday and Bank Holidays 09:00hrs to 18:00hrs.

Reason: To protect the amenity of nearby residents (Cambridge Local Plan 2006, Policy 4/13)

4. Except with the prior written agreement of the local planning authority no construction work or demolition shall be carried out or plant operated other than between the following hours: 0800 hours to 1800 hours Monday to Friday, 0800 hours to 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan 2006 policy 4/13)

5. Other than the drop-down seat, which forms part of the kiosk modular structure, there shall be no external seating, advert boards, or such equipment associated with the use.

Reason: To ensure the pavement does not become congested with street furniture (Cambridge Local Plan policy 8/2, 8/4).

INFORMATIVE: The applicant is reminded that under the Food Safety Act 1990 (as amended) the premises will need to be registered with Cambridge City Council. In order to avoid additional costs it is recommended that the applicant ensure that the kitchen, food preparation and food storage areas comply with food hygiene legislation, before construction starts. Contact the Commercial Team of the Refuse and Environmental Service at Cambridge City Council on telephone number (01223) 457890 for further information.