

<b>Application Number</b>	14/0806/LBC	<b>Agenda Item</b>	
<b>Date Received</b>	16th May 2014	<b>Officer</b>	Mrs Angela Briggs
<b>Target Date</b>	11th July 2014		
<b>Ward</b>	Market		
<b>Site</b>	Payphone Kiosk Adjacent Church Of St Mary The Great St Marys Street Cambridge Cambridgeshire		
<b>Proposal</b>	Change of use of 2no. phone boxes to 2no. retail kiosks (A1) selling either tea/ coffee, ice cream, shoe shine or souvenirs.		
<b>Applicant</b>	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"> <li><input type="checkbox"/> The proposal would preserve and enhance the character and appearance of the Conservation Area</li> <li><input type="checkbox"/> The proposal would not harm the historic fabric of the listed buildings.</li> </ul>
RECOMMENDATION	APPROVAL

**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 report 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. This 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 and Listed structures within the City Centre.
- 2.6 An amended plan was submitted on 8<sup>th</sup> 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 4/10 4/11

## 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
Material Considerations	<u>Area Guidelines</u>  Cambridge Historic Core Conservation Area Appraisal (2006)

## 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 Urban Design and Conservation Team**

6.2 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:

- 6.3 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. Impact on the historic interest of the Listed structures and the setting of the Listed Church.
2. Third Party Representations

### **Impact on the historic interest of the Listed structures and the setting of the Listed Church.**

8.2 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 and enhance the character of the Conservation Area.

- 8.3 In terms of the physical works to the listed buildings, the module would be free-standing and therefore, not fixed to any part of the phone box structure, nor to the floor plate. The majority of physical works would be to the door. Replacement glazing panels are proposed, to ensure that the kiosk is secure. This would consist of 4mm-thick thermally toughened soda lime silicate safety glass to BS EN 12150-1:2000. A new lock mechanism would need to be installed, which would consist of a piano-style hinge installed behind the existing "PULL" plate in order to allow access to the locking mechanism. The Conservation Officer raises no concern about these elements and I would concur with his view that these works are acceptable, subject to conditions relating to glass sample and details of the lock mechanism.

### **Third Party Representations**

- 8.4 I have responded to these concerns under my report for Ref: 14/0320/FUL, from paragraphs 8.17 onwards.

## **9.0 CONCLUSION**

- 9.1 In conclusion, I consider that the proposed development would not significantly harm the character or appearance of the Conservation Area. Furthermore, whilst I acknowledge that the character of the Listed Building would be altered, the proposed development would not involve significant works to the skeletal structure which could not be reversed. I consider that the conditions suggested by the Conservation Officer are reasonable, and as such I recommend that the application be approved, subject to those conditions.

## **10.0 RECOMMENDATION**

**APPROVE** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the requirements of section 51 of the Planning and Compulsory Purchase Act 2004.

2. Prior to the new use being commenced, a maintenance schedule shall be submitted to and agreed in writing by the Local Planning Authority, and all four kiosks shall be painted to the same standard.

Reason: In the interests of the appearance of the Conservation Area and to be consistent with policy 4/10 of the Cambridge Local Plan 2006.

3. No works shall take place until a sample of the proposed replacement glazing and full details of the proposed lock have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

Reason: To ensure the satisfactory preservation of this listed building and to be consistent with policy 4/10 of the Cambridge Local Plan 2006.