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PLANNING AND BUILDING CONTROL
29 SEP 2011

27/09/2011

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 1995, Part 24 (as amended) ['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 24 of the Regulations and the associated Guidance[1]

Payphone Adj to Arena Car Park New Bridge Street M3 1LD

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 £335.

1 Planning Policy Guidance 8: Telecommunications: Issued by the Department for Communities and Local Government August 2001

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 the GPDO, 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 permission[2]. In other words the principle of the development is not in issue.

You will wish to refer to the guidance provided by PPG8.

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 to this type of payphone...

The older type of street payphone kiosk, the K2, or the K6 can no longer be installed in the UK, since they do not comply with disability regulations for the design on public payphones as issued by the Communications Regulator, Ofcom[3].

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 accessed easily by wheelchair users. The payphones are slightly 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 1.5sq metre maximum 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.

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 payphones[4].

Environmental and conservation factors

These new modern payphones are powered by solar energy and rely on mobile telephony for connection to other networks. While an opening notice will be served on your

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

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)

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.

Criteria for site selection.

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 Adj Arena Car Park , New Bridge Street M3 1LD

As you will be aware this site is neither in a conservation area, nor are there any listed buildings either adjacent or close by the site.This is primarily a commercial area.
The pavement is 5.9 m wide leaving more than adequate room for pedestrians. Apart from a few road signs there is no other street furniture on this pavement. Within 50m there are several large illuminated billboards. As far as we can ascertain there is no possible cause of obstruction to either drivers or pedestrians.

In all the circumstances therefore we believe that this application meets all the necessary 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

[redacted]

D Parkin
For and on behalf of Infocus Public Networks Ltd