

Committee Name and Date of Committee Meeting

Delegated Officer Decision – 12 November 2019

Title

Proposal by BT to permanently remove the public phone box adjacent to 268 Kimberworth Road

Assistant Director Approving Submission of the Report

Simon Moss Assistant Director, Planning, Regeneration and Transport

Report Author

Rachel Overfield, Planning Officer, Planning, Regeneration and Transport

Ward(s) Affected

Rotherham West Ward

Executive Summary

BT has proposed the removal of the public phone box adjacent to 268 Kimberworth Road S61 1HE. A resident requested the kiosk be removed due to it attracting antisocial behaviour. There have been 5 calls in the past 12 months from the payphone. The nearest alternative public payphone is 660 metres away at Meadow Street. Ofcom guidance on the removal of public phone boxes requires a final decision on phone removal to be made by the Council and the Secretary of State to be notified. Following assessment, and having regard to the consultation carried out, it is proposed to agree with the removal of this phone box.

Recommendations

1. That the Council consents to the removal of the public phone box adjacent to 268 Kimberworth Road S61 1HE.
2. That the Final Notification and Schedule is published setting out the Council's decision and BT and the Secretary of State are notified.

List of Appendices Included

Appendix 1: Legislative information and procedures

Appendix 2: Proposed Final Notification and Schedule

Appendix 3: Criteria for phone box retention or removal

Background Papers

Ofcom guidance on procedures for the removal of public phone boxes (including required consultation requirements):

<http://stakeholders.ofcom.org.uk/binaries/consultations/uso/statement/removals.pdf>

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Title: Proposal by BT to permanently remove the public phone box adjacent to 268 Kimberworth Road

1. Recommendations

- 1.1 That the Council consents to the removal of the public phone box adjacent to 268 Kimberworth Road S61 1HE.
- 1.2 That the Final Notification and Schedule is published setting out the Council's decision and BT and the Secretary of State are notified.

2. Background

- 2.1 BT has proposed the removal of this public phone box due to low usage. There is an alternative public phone box 660 metres away. Under Ofcom guidance the Council is required to undertake a two stage public consultation on the proposal from BT. After considering any comments made in the consultation process, the Council can then make a final decision on the phone box and either agree with BT removing the phone box or decide that it should remain in active use for public calls. The Secretary of State will be notified of the final decision (see Appendix 2) a copy of which will also be placed on the Council's website.
- 2.2 Should the Council object to the removal of the phone box then BT must retain it in place and continue to maintain it for public calls. Where it is agreed that BT can remove the phone box they will do so unless the kiosk is adopted by an appropriate group (following removal of the phone equipment).
- 2.3 Examining road traffic incident records since 2016 there have been four road traffic incidents recorded, including one fatality. There have been seven casualties in this period in total. This is of concern, removal of the phone box may potentially delay an emergency response. There are 1,220 properties within a 400m radius of the phone box location where assistance might possibly be requested to contact the emergency services. The kiosk was suggested for closure by a local resident due to it attracting antisocial behaviour. There was one response received in the initial public consultation supporting its closure and no objections were made.
- 2.4 It is proposed that the Council agree to the removal of the phone box.

3. Options considered and recommended proposal

- 3.1 Options available are to make a final decision either to object or agree to the proposal for public phone box removal. No objections were received in the initial consultation on the removal of this phone box. One of the criteria the Council uses in considering requests for phone box removal was triggered. There have been four road traffic incidents recorded including one fatality near the payphone. However, there are

a large number of properties nearby where assistance might possibly be requested in order to contact the emergency services. The phone box removal was requested by a resident due to it attracting antisocial behaviour. There was one response received in the initial public consultation supporting its closure where no objections were made. Overall, it is therefore recommended that the Council agrees to the removal of this phone box.

4. Consultation

4.1 In line with Ofcom guidance the Council has consulted on the proposals by BT. Councillors Jarvis and Jones raised no objection and commented on the lack of demand for the phone kiosk. There was one response received in the initial public consultation supporting its closure and no objections were made. The Council has considered whether to support or object to the proposed public phone box closures based on internally derived criteria (see Appendix 3):

1. Whether phone boxes are recorded as having had 52 or more calls in 12 months (this is equivalent to one call per week which is considered to be a reasonable level of usage).
2. Whether phone boxes are close to areas where highways injury incidents have been recorded.
3. Whether the subject is a red phone box (typically a “K6” box) located in a Conservation Area.
4. Whether sites are located in areas at high risk of flooding.
5. Whether phone boxes are in areas with a high level of population over 75 years of age, is in an area of below national average home ownership and has fewer than 50 properties within 400 metres.

5. Timetable and Accountability for Implementing this Decision

Ofcom guidance advises on the role of the local planning authority in objecting or consenting to public phone box removal within a time frame of 90 days of the initial notice being received. The 90 day period concludes on 19 November 2019. The table below sets out the key dates relating to this process.

Receipt of notice from BT	21 August 2019
First consultation	16 September – 3 October 2019
Consultation on Draft Decision	11 October – 11 November 2019
Decision by Assistant Director	14 – 15 of November 2019

Deadline for response to BT and Secretary of State	18 November 2019
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6. Finance and Procurement Implications

6.1 The consultation and associated administration costs of the public phone box removal proposals have been met within existing budgets. Should any inspection identify any safety concerns following phone box removal, then the Council will serve a notice on BT to make good any reinstatement and recover costs.

7. Legal Implications

7.1 The process set out in this report, and which has been followed in respect of this proposed public phone box removal is compliant with the Communications Act 2003 as required, as well as the relevant guidance issued by OFCOM. Further information as to these legislative and procedural requirements is contained in Appendix 1.

8. Human Resource Implications

8.1 No HR implications were identified.

9. Implications for Children and Young People and Vulnerable Adults

9.1 Not everyone has their own landline or mobile phone and therefore the criteria in paragraph 4.1 has been used to assess this request for removal.

10. Equalities and Human Rights Implications

10.1 An initial screening equality analysis has been completed. There may be residents who have limited access to mobile phones and land line connections, particularly those on low incomes and elderly people. The criteria set out in the Communications Act 2003 and the internally derived criteria as set out in paragraph 4.1 have been used to assess phone box removal. The request for the phone box removal has originated from the community. The removal of the phone box may help the community by removing a target of antisocial behaviour.

11. Implications for Partners and Other Directorates

11.1 No implications have been identified.

12. Risks and Mitigation

12.1 There may be residents who have limited access to mobile phones and land line connections, particularly those on low incomes and elderly people. Limited access to call boxes for emergency purposes could jeopardise a timely response to an emergency situation.

13. Accountable Officer(s)

13.1 Rachel Overfield, Planning Officer, Planning, Regeneration and Transport

13.2 Simon Moss Assistant Director, Planning, Regeneration and Transport

Approvals obtained on behalf of:-

Strategic Director of Finance & Customer Services	Richard Young Head of Finance (Regeneration & Environment)	13 September 2019
Assistant Director of Legal Services	Stuart Fletcher Service Manager (Property and Commercial) Legal Services	9 September 2019
Head of Procurement (if appropriate)	Joanne Kirk, Purchase to Pay Manager, Corporate Procurement Service	6 September 2019
Head of Human Resources (if appropriate)	Kathryn Roberts Senior HR Consultant	9 September 2019

Appendix 1: Legislative information and procedures

1. Procedures set out by Ofcom, under the Communications Act 2003, require the Council to organise consultation with local communities about the proposed call box removal. Ofcom guidance on the removal of public phone boxes outlines a number of factors local planning authorities are advised to consider when making a decision over the proposed removal of public telephone boxes. It requires a draft decision to be made by the Council and the Secretary of State to be notified.
2. The Relevant Public Body must be satisfied that it acted in accordance with the six community requirements set out in section 4 of the Communications Act 2003 ('the Act'). These are:
 - To promote competition in the provision of electronic communications networks and services, associated services and facilities and the supply of directories;
 - To contribute to the development of the European internal market;
 - To promote the interests of all persons who are citizens of the European Union;
 - Not to favour one form of, or means of, providing electronic communications networks or services i.e. to be technology neutral;
 - To encourage network access and service interoperability for the purpose of securing competition in the electronic communication networks and services markets and the maximum benefit for customers of communications providers; and
 - To encourage compliance with standards necessary for facilitating service interoperability and securing freedom of choice for the customers of communications providers.
3. The consultation procedure then requires the Council to consult on this draft decision for one month and subsequently come to a final decision. A Final Notification (of the outcome of the second consultation) is published which details reasons for support or objection to BT's proposals. The Final Notification is to be sent to BT and the Secretary of State for Business, Enterprise and Regulatory Reform within 90 days of the original Council receipt of notification of the proposal for phone service closure from BT. BT cannot proceed to remove any call box that is the subject of objections supported by the Council in the Final Notification - known as the "local veto".
4. Full information on procedure and legislative requirements is given in Ofcom guidance on procedures for the removal of public call boxes:

<http://stakeholders.ofcom.org.uk/binaries/consultations/uso/statement/removals.pdf>

Appendix 2: Proposed Final Notification and Schedule

Notification under section 49 of the Communications Act 2003

Decision by Rotherham Metropolitan Borough Council in response to a proposal by British Telecommunications plc for the removal of public call boxes pursuant to Part 2 of the Schedule to a Direction published by Ofcom on 14 March 2006 ('the Direction').

1. On 11 October 2019 Rotherham Metropolitan Borough Council, in accordance with section 49(4) of the Communications Act 2003 ('the Act'), issued a notification setting out its draft decision in response to a proposal by British Telecommunications plc for the removal of public call boxes pursuant to Part 2 of the Direction ('the First Notification').
2. A copy of the First Notification was sent to the Secretary of State in accordance with section 50(1)(b) of the Act.
3. In the First Notification, Rotherham Metropolitan Borough Council invited representations about the draft decision by 5pm on 11 November 2019.
4. Rotherham Metropolitan Borough Council has considered every representation about the draft decision duly made to it and Ofcom has not notified Rotherham Metropolitan Borough Council of any international obligation of the United Kingdom for this purpose.
5. The decision is set out in the Schedule to this Notification.
6. The effect of, and Rotherham Metropolitan Borough Council reasons for making, the decision is set out in the Schedule to this Notification.
7. Rotherham Metropolitan Borough Council consider that the decision complies with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to the proposals.
8. In making the decision, Rotherham Metropolitan Borough Council has considered and acted in accordance with the six community requirements in section 4 of the Act.
9. A copy of this Notification has been sent to the Secretary of State in accordance with section 50(1)(b) of the Act.
10. The Schedule to this Notification shall form part of this Notification.

Schedule

Decision by Rotherham Metropolitan Borough Council in response to a proposal by British Telecommunications plc for the removal of public call boxes pursuant to Part 2 of the Schedule to a Direction published by Ofcom on 14 March 2006 ('the Direction').

Telephone Number	Location	Recommendation	Reasons
01709 560268	Phone box adjacent to 268 Kimberworth Road, S61 1HE	Consent	Despite the phone box meeting local criteria developed for assessing phone boxes worthy of retention there has been no community support received in the consultation in favour of the phone box retention. A resident has requested the kiosk be removed due to it attracting antisocial behaviour and one response was received in the initial public consultation supporting its closure.

Appendix 3: Criteria for phone box retention or removal

The table below shows the locally derived criteria assessment

Local Criteria	Phone Box Assessment
Whether phone boxes are recorded as having had 52 or more calls in 12 months (this is equivalent to one call per week which is considered to be a reasonable level of usage).	No. 5 calls over 12 months.
Whether phone boxes are close to areas where highways injury incidents have been recorded.	Examining road traffic incident records since 2016 there have been four road traffic incidents recorded, including one fatality. There have been seven casualties in this period in total
Whether the subject is a red phone box (typically a “K6” box) located in a Conservation Area.	This is not a red phone box, nor is it in a Conservation Area.
Whether sites are located in areas at high risk of flooding.	The site is not considered to be at risk of flooding (Flood Zone 1 of the Environment Agency’s flood maps).
Whether phone boxes are in areas with: <ul style="list-style-type: none"> • a high level of population over 75 years of age, • is in an area of below national average home ownership and has • Fewer than 50 properties within 400 metres. 	No. Phone box is in an area with: <ul style="list-style-type: none"> • 1220 properties within 400 metres. • Home ownership is 55.2 %; which is below the national average home ownership level of 63.5% (England & Wales). • 4.4% of population in the area (Lower Layer Super Output Area) is over 75 years of age this is below the borough average of 7.8%.