

Appeal Decision

Site visit made on 11 December 2017

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2018

Appeal Ref: APP/U5360/W/17/3180904

Pavement outside 178 Shoreditch High Street, London E1 6HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Euro Payphone Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2017/1737, dated 22 March 2017, was refused by notice dated 21 June 2017
 - The development proposed is a call box.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for installation of a telephone kiosk by an electronic communications code operator, at pavement outside 178 Shoreditch High Street, London E1 6HP in accordance with the terms of the application Ref 2017/1737, dated 22 March 2017, subject to the standard conditions set out in the GPDO.

Preliminary Matters

EFThe description on the application form states that the proposed development is a 'call box'. For clarity the development proposed is a free standing telephone kiosk. The Council determined the application on that basis and so shall I.

1. As an electronic communications Code Operator the appellant benefits from deemed planning permission granted by Part 16 of the 2015 GPDO for the proposed telephone kiosk but subject to applying to the Council for prior approval of its siting and appearance. Such an application was made, but the Council deemed that prior approval would be needed and it refused to approve the proposed siting on the basis of the information submitted.

Main Issue

2. Although not mentioned in the Council's reason for refusal, the appeal site is located within a Conservation Area and near a Grade II listed building so the Council's concern about detriment to the surrounding public realm and streetscape leads to a definition of the main issue in this appeal as the effect of the siting and appearance of the development on the character and appearance of the South Shoreditch Conservation Area and on the setting of the grade II listed building at 180-182 Shoreditch High Street.

Reasons

3. The site forms part of the public pavement opposite 178 Shoreditch High Street, which is currently occupied by 'Whatever it Takes' fitness centre with 'Tesco Express' occupying 179. The area is a busy part of London with a wide variety of retail, restaurants and commercial uses in the area.
4. Shoreditch High Street is a busy thoroughfare with a bus stop and shelter immediately south of the site. A marked loading bay is opposite the proposed siting for the kiosk. To the north of the site, adjacent to the Tesco store, is a signalised pedestrian crossing. In terms of street furniture there is a single round style public refuse bin some 1.9m from the appeal site. Other items in the immediate area are typical forms of urban street furniture such as a double waste bin close to the kerb by the bus shelter, a single pole sign detailing the terms of use of the loading bay and lampposts.
5. I have carefully considered the Council's representations in relation to the effect of the proposal on the character and appearance of the area in particular the siting of the proposed kiosk in relation to a proliferation of street clutter. However, in considering the city centre context of the appeal site at this particular point along Shoreditch High Street, although other items of street furniture exist in the immediate vicinity, the pavement only contains a single refuse bin at the point where the kiosk would be erected. Moreover, given the size of the proposed kiosk, it would only occupy a very small part of the pavement. Consequently, I am not persuaded that the development would result in a proliferation of street clutter and therefore find the proposal acceptable in this location.
6. I have also considered the Council's representations in relation to the effect of the proposal on the setting of the grade II listed building at 180-182 Shoreditch High Street and the South Shoreditch Conservation Area. However, again the proposal needs to be considered within the city centre context that provides the setting for the listed building and Conservation Area which typically contains various other forms of street furniture. Given the significant and imposing scale of the building at 180-182 these items of street furniture do not detract from its setting or its significance.
7. Consequently, the introduction of the proposed kiosk would not materially affect the setting of the listed building due to its modest size when compared to the overall scale of the building. Furthermore, the siting of the proposal away from the listed building would not result in visual clutter or materially harm the street scene or the setting of the listed building. Moreover, the appearance of the proposed kiosk is similar to the design and appearance of the bus shelter and as such would not appear incongruous in the street scene or amount to harm to the setting of the listed building or indeed the Conservation Area.

Other Matters

8. Transport for London (TfL) has also suggested that the proposed kiosk would impede pedestrian flows, particularly during peak times and at weekends. However, the appellant has demonstrated that a footway clear zone of 2.73m will be maintained following the erection of the kiosk. This would exceed the Transport for London Streetscape Guidance (2016) which requires a minimum of 2m footway clear zone.

9. TfL have also raised an issue regarding the future narrowing of the pavement to facilitate a dedicated bus lane which would require the removal of the kiosk. However, I note that this is an aspiration for TfL that has yet to come forward. Moreover, it would not preclude the removal of the kiosk, and other items of street furniture should the narrowing of the footpath come forward at a later date.
10. Paragraph 46 of the National Planning Policy Framework tells us that the need for the telecommunications system should not be questioned by the local planning authority.

Conclusion

11. I therefore conclude that the proposal would preserve the character of the South Shoreditch Conservation Area and the setting of 180-182 Shoreditch High Street. Having regard to all other matters raised, I conclude that the appeal should be allowed, subject to the conditions under Schedule 2, Part 16, Class A.2 (2) and A.3 (9) and (11) which specify that the development should be carried out in accordance with the details submitted within the application and must begin within 5 years of the date of this decision. It must also be removed and the land restored to its former condition once it is no longer required

Graham Wyatt

INSPECTOR