



Appeal Decision

Site visit made on 5 June 2018

by F Rafiq BSc (Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2018

Appeal Ref: APP/X5210/W/17/3180680

Pavement outside Swiss Cottage Tube Exit, London, NW3 6HY

- 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, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Mr Tom Fisher (Euro Payphone Ltd) against the decision of the Council of the London Borough of Camden.
 - The application Ref 2017/2489/P dated 22 March 2017 was refused by notice dated 21 June 2017.
 - The development proposed is the installation of 1 x telephone box on the pavement.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance, of the installation of 1 x telephone box on the pavement at Pavement outside Swiss Cottage Tube Exit, London, NW3 6HY in accordance with the terms of the application Ref 2017/2489/P, dated 22 March 2017, and the plans submitted with it.

Procedural Matters

2. I have taken the description of development from the decision notice as this more accurately describes the proposal subject of this appeal. The Council proceeded to determine the prior approval application and I am also satisfied, based on the submitted written information, location plan and kiosk drawing, that there is adequate information to proceed to determine it.
3. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed payphone kiosk (also known as a public call box) under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), subject to prior approval by the local planning authority of siting and appearance. The appellant applied to the Council on that basis. The Council determined that prior approval was required and refused for the siting and appearance of the telephone box.
4. The Council have made reference to Core Strategy Policies CS5, CS11 and CS17 and Policies DP17, DP21 and DP24 of the Council's Development Policies. The principle of development is established by the GPDO and prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO includes no requirement that regard be had to the development plan. The provisions of

the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. I, therefore, take account of the policies of the development plan and (any related guidance including policies in emerging plans) in so far as they are a material consideration relevant to matters of siting and appearance.

5. The National Planning Policy Framework deals with supporting high quality communications infrastructure, including applications for prior approval, and requires that local planning authorities must determine applications on planning grounds. As the principle of development is established by the GPDO, considerations such as need for the telephone box are not a relevant matter.

Main Issue

6. The main issue is whether or not approval should be given in respect of the siting and appearance of the development, having regard to the character and appearance of the area and the effect upon highway and pedestrian safety.

Reasons

7. The appeal proposal relates to a free standing telephone kiosk which would have a broadly rectangular form with dimensions of 1.32m by 1.11m and a height of 2.45m. The telephone kiosk would be formed of a powder coated metal frame and laminated glass. It would have an open side to allow wheelchair access and solar panels would be included at roof level.
8. The appeal site is part of a wide pavement on the western side of Finchley Road. The site is situated in close proximity to a ventilation shaft for Swiss Cottage Underground Station, which is to its north. The kiosk would be positioned closer to the highway edge, near traffic signals, a street directional sign and a bin and away from a tall building on this side of Finchley Road.
9. The Council have raised concerns that the proposal would add to an over-proliferation of such structures. I was able to see at the time of my visit that there were four telephone kiosks nearby, but these were situated further to the south, beyond the pedestrian crossing. There are a number of other current appeal proposals¹ for telephone kiosks, but these are to the north, well beyond the ventilation shaft and there would not therefore be an over proliferation of such structures. Although there is other street furniture closer to the appeal site, given the width of the footway and the spacing between the existing street furniture items, I do not consider that the proposal would have a harmful cluttering effect in the streetscene.
10. The Council reference the poor design of the telephone kiosk, but in terms of its scale, whilst it would be somewhat larger than a standard telephone kiosk, it would nevertheless appear similar in size to the other kiosks, which are arranged as two adjoining pairs. Although the kiosk would use metal as part of its construction, it would have significant elements of glazing, which would give it a lightweight appearance. For this same reason, and also due to its dimensions, I do not consider that it would unacceptably reduce sight lines, casual surveillance or adversely affect the operation of CCTV.

¹ APP/X5210/W/17/3180681 and APP/X5210/W/17/3180685

11. Concerns have been raised in relation to the siting of the kiosk in close proximity to four other telephone boxes and public toilets, but I have no reason to believe that this would lead to safety issues in terms of crime and anti-social behaviour. The Council have provided a number of photographs which they state demonstrate crime or anti-social behaviour. I have not however been made aware of the location or the circumstances of those kiosks. In this instance, the proximity of the busy pedestrian crossing would ensure a good level of natural surveillance of the site. I do not therefore consider that the siting and appearance of the kiosk would be harmful in terms of crime or anti-social behaviour.
12. The Council have identified concerns in relation to the wheelchair accessibility of the proposal. They state that the appellant has referenced an older version of the British Standards, and that the kiosk would fail to comply with the current British Standard (BS) 8300, which includes guidance on payphones outside of buildings. Some details of BS8300 have been provided, including reference to the telephone controls needing to be within the correct height range from the floor (0.75m-1m). Although the proposal would not meet this, I consider that the height of the telephone controls at 1.5m, would still be within the reach of a wheelchair user. Furthermore, it is not disputed that the open design of the kiosk would allow for wheelchair access. As such, overall, despite the shortcomings identified, I consider that the siting and appearance of the proposal would not be unduly harmful in this respect.
13. The proposed kiosk would result in the loss of some footway. Nevertheless, the pedestrian footway is wide and the Appellant has made reference to Transport for London Guidance which would be exceeded. It would also greatly exceed the minimum clear footway width for a busy pedestrian street, as set out in the Council's Streetscape Design Manual. Reference has been made to the exact positioning of the telephone box not having been submitted, but, based on the submitted plans, the proposed location would be just to the south of the ventilation shaft. I do not therefore consider the telephone kiosk would lead to overcrowding and its siting would not cause a visual obstruction. I was also able to see the location of the pedestrian crossing and pedestrian movements, and the proposed kiosk would have a sufficient separation to not impact on the crossing or the signals. Although some pedestrians did walk along the area where the appeal proposal is to be sited, the pavement is of a sufficient width to not unduly obstruct such movements, including those specific user groups that need special consideration.
14. The Council have made reference to proposed schemes to reconfigure the Swiss Cottage Gyratory and install Cycle Super Highway Route 11. I have not been provided with the details of these, and therefore have no reason to consider that the siting of the kiosk, given the width of the pavement, would be harmful to the aims of these schemes.
15. Reference has been made to appeal decisions on other sites but I am not aware of the full circumstances and I can confirm that I have considered this appeal on its own merits.
16. Concerns have been expressed regarding the proposed kiosk being used for advertisements. The construction of a kiosk and the display of advertisements are distinct and separate matters requiring different applications. The appeal relates to the construction of a telephone kiosk only and not any advertisement

consent that may otherwise be required. I have determined the appeal on that basis and, therefore, the matter of advertisements has not influenced this decision.

17. I, therefore, conclude that the proposed kiosk with respect to its siting and appearance would not harm the character and appearance of the area or highway and pedestrian safety, which justifies the grant of prior approval.

Conditions

18. The grant of prior approval for the kiosk would be subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO. Those conditions include an implementation timescale, accordance with the details submitted and removal of the structure/apparatus when no longer required for electronic telecommunications purposes.

Conclusion

19. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed and prior approval granted subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO.

F Rafiq

INSPECTOR