
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/18/3195364

Pavement outside 21 Hampstead Road, London, NW1 3JA

- 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 2017/3526/P dated 22 March 2017 was refused by notice dated 7 August 2017.
 - The development proposed is the installation of 1 x telephone kiosk 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 kiosk on the pavement at Pavement outside 21 Hampstead Road, London, NW1 3JA in accordance with the terms of the application Ref 2017/3526/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 development plan 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 (other guidance) 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 kiosk would be located on the western side of Hampstead Road, a short distance from the junction with Drummond Street. The pavement where the appeal site is located is wide and generally clear from street furniture. I acknowledge that the proposed kiosk would introduce a structure in an area which is largely open, but the proposal, with significant element of glazing, would give it a lightweight appearance. The Council have raised concerns that it would add to an over-proliferation of such structures. Although the proposal would be opposite an existing telephone kiosk, it would be separated by a wide road and I do not therefore consider the presence of two kiosks would lead to such an over-proliferation, or give rise to undue visual clutter in the streetscene.
9. Reference has been made to the poor design of the telephone kiosk, but in terms of its scale, although it would be larger in comparison to the standard telephone kiosk and the new BT InLink unit, it would not appear as a bulky feature given the large scale of buildings on the western side of Hampstead Road. The use of metal and glazing as part of its construction are typical of other street furniture items such as some bus shelters, and I do not consider that the use of these materials would result in an incongruous design.
10. Concerns have been raised in relation to the siting of the kiosk outside a Sainsbury's Local store and close to an ATM. From my site observations, the entrance to the store, and the location of the ATM, are further to the south than the proposed telephone kiosk. There is a pole mounted CCTV close to the appeal site but given the dimensions of the proposal at 1.32m by 1.11m and its mainly glazed or open elevations, it would only have a limited effect on the sight lines of CCTV. Furthermore, given these factors and the siting of the kiosk close to the carriageway as well as the width of the pavement, there would continue to be a good level of natural surveillance, which I consider would not unduly increase opportunities for crime and anti-social behaviour.

11. The appellant has stated that the kiosk has been designed to allow wheelchair users access. The Council have however identified the kiosk not promoting fair access as a reason for refusal. More specifically it has been stated that the kiosk would fail to comply with the British Standard (BS) 8300 due to the telephone controls not being within the correct height range from the floor (0.75m-1m). Whilst this may be the case, I consider the maximum height of the telephone controls at 1.4m, 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, I consider that the siting and appearance of the proposal would not be unduly harmful in this respect.
12. The proposal would be located close to the edge of footway, where most of the existing street furniture is situated. Although the proposed kiosk would be wider than other street furniture items such as lampposts, given the width of the pavement, I do not consider that pedestrian movement would be unduly hindered. The location of the site in Central London, within an area that accommodates high volumes of pedestrian during busy periods is noted. According to the appellant however, the width of the pavement would greatly exceed the minimum clear footway width for a busy pedestrian street, as set out in the Council's Streetscape Design Manual, as well as the overall footway width (in high flow locations) contained in Transport for London's Pedestrian Comfort Guidance. Although pedestrian volumes may increase in the future and a Pedestrian Comfort Level Assessment has not been provided, I do not consider from the information before me, and my site observations, that there would be any adverse impacts by way of overcrowding.
13. The Council have referenced the place function of this area of footway which they state allows people to be dropped off and picked up in a vehicle, as well as accepting deliveries for nearby commercial premises. It is however acknowledged that the appeal site is not directly adjacent to a loading bay, and as this section of footway is generally clear and only contains slender street furniture, there is sufficient room for people to get in and out of vehicles and for loading unloading to take place along Hampstead Road.
14. 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.
15. 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.
16. 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

17. 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

18. 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