
Appeal Decision

Site visit made on 11 July 2018

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th August 2018

Appeal Ref: APP/X5210/W/18/3195360

Pavement Outside 10 Great Queen Street, London WC2B 5DG

- 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) (England) Order 2015.
 - The appeal is made by Mr Tom Fisher (Euro Payphone Limited) against the decision of the Council of the London Borough of Camden.
 - The application Ref 2017/3556/P, dated 14 June 2017, was refused by notice dated 7 August 2017.
 - The development proposed is the installation of x 1 telephone kiosk on the pavement.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development is taken from the appeal form to provide certainty of the proposal subject to the appeal. Although the date on the application form was 22 March 2017, the date of the application is taken from the appeal form, appeal statement, covering letter and the Council's decision notice which are consistent with the ownership notice which was served.
3. A revised version of the National Planning Policy Framework (the Framework) was issued on 24 July 2018 but raises no new issues concerning telecommunication matters beyond those raised by the parties.
4. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed telephone kiosk under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) subject to prior approval by the local planning authority of siting and appearance. The Council determined that prior approval was required and refused for the siting and appearance of the kiosk proposed. This appeal has been determined based upon these matters.
5. The Council has made reference in the reasons for refusal to the Camden Local Plan (LP). However, 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 has 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. Consequently, this appeal is not determined on the basis of Section 38(6) of the Planning and Compulsory

Purchase Act 2004. Nonetheless, the development plan policies and related guidance, including the *Streetscape Design Manual* (SDM) although this does not specifically refer to kiosks, *Streetscape Guidance* (SG), *Pedestrian Comfort Guidance for London* (PCG) and *Camden Planning Guidance* (CPG), insofar as they are relevant to matters of siting and appearance, have been taken into account.

Main Issues

6. The main issues are considered to be whether or not approval should be given in respect of the siting and appearance of the development, with particular reference to (a) the character and appearance of the locality and (b) and the convenience of highway users.

Reasons

Character and Appearance

7. The appeal site is adjacent to the junction of Great Queen Street and Newton Street and is situated the within the Seven Dials (Covent Garden) Conservation Area. The *Conservation Area Statement* identifies that the significance of this area is associated with the range and mix of building types and uses and the street layout. Most buildings are sited at the back edge of the pavement without physical front boundaries or basement areas. In this tightly contained streetscape, and apart from Seven Dials, there are no formal open spaces but some there are informal spaces occurring in the form of yards and street junctions.
8. There is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. This duty is echoed in LP Policies D1 and D2. The *Conservation Area Statement* identifies that at the junction of Great Queen Street and Newton Street the office building, outside which the proposed kiosk would be sited, makes no positive contribution to the area because it is out of scale and character with other buildings.
9. However, at the junction and outside the building is a high quality public realm comprising an open area with large stones, ornamental trees, a traffic sign, lamp-post and temporary external seating for licenced premises. The quantity of the existing street furniture is not an excessive amount and nor is it cumulatively so conspicuous that it gives the impression of unacceptable clutter. By reason of its scale and siting adjacent to the stones, the proposed freestanding kiosk would be prominent and detrimental addition to the streetscene because it would unacceptably detract from the openness of the public realm at this junction. The inability to integrate well into the streetscene would not be mitigated by the lightweight design of the appeal scheme.
10. For the reasons given, the proposed development would fail to preserve the character and appearance the Conservation Area, including views along Great Queen Street from both Drury Lane and Kingsway directions. In making this assessment the quality of the adjacent office building and the commercial uses around the site has been taken into account. These matters do not, however, detract from the positive contribution that this high quality public realm makes to the junction and wider streetscene.

11. The extent of harm to the significance of the heritage asset would be less than substantial. In such circumstances, the National Planning Policy Framework (the Framework) advises to weigh harm against the public benefits associated with a proposal. This is reflected in LP Policy D2. The appellant has referred to the principle of the development being supported by the Framework which encourages the development of telecommunication infrastructure to support economic growth. Furthermore, the kiosk would be accessible to those with impaired mobility and use solar technology as a power source. Although the harm of the appeal scheme to the significance of the Conservation Area would be less than substantial, the public benefits which have been identified do not outweigh the harm which has been identified.
12. Accordingly, it is concluded that the siting of the kiosk would detract unacceptably from the character and appearance of the locality. Further, it would conflict with LP Policies D1, D2 and T1 insofar as that they are a material consideration to this appeal for prior approval. LP Policy D1 is concerned with high quality design in development which respects local context and character and also integrates well with the surrounding streets. LP Policy T1 refers to improvements to the pedestrian environment by supporting high quality public realm improvement works and this is echoed in the SDM, CPG and SG which seek to minimise unnecessary street clutter.

Convenience of Highway Users

13. During the morning site visit it was observed that there was a desire route for people walking to and from Kingsway through the public realm towards Newton Street. This desire route is partially determined by the location of the stones. Based upon the appellant's measurements and what was observed, and although there are the stones within the public realm, the siting of the appeal scheme would maintain wide pavements either side of the proposed kiosk for people walking along Great Queen Street.
14. However, there would be limited space available between the proposed kiosk and the carriageway of Newton Street where the pavement includes a traffic sign. The available clear pavement would not appear to accord with the preferred minimum 2 metres width as identified in the SG and CPG. In the absence of a more detailed assessment of the type identified in the PCG, the proposed kiosk would be likely to result in unacceptable interference with pedestrians.
15. On this issue, it is concluded that the siting of the kiosk would unacceptably harm the convenience of other highway users. Further, it would conflict with LP Policies T1 and T6 insofar as that they are a material consideration to this appeal for prior approval. These policies seek to provide high quality footpaths and pavements that are wide enough for the number of people expected to use them and promoting fair access for all. The approach concerning an adequate width of pavement is echoed in the guidance contained in the SDM, SG and PCG. In respect of highway safety matters, no specific conflict has been identified with LP Policies G1 and A1 which are concerned with the delivery and location of growth in Camden and protecting the quality of life of occupiers and neighbours.

Other Matters

16. The 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, some of the considerations raised by other parties, such as need for the proposed kiosk, are not relevant matters.
17. The Council has referred to the number of kiosks within the surrounding area. However, these other kiosks are in locations that are some distance away from the site with a different character and surrounding context. Both parties have provided appeal decisions but, in the absence of their detailed planning circumstances, I cannot be certain that these other schemes are directly comparable to the proposed kiosk. This appeal has been determined based upon the planning circumstances of the proposed kiosk.
18. Although the general concerns of the Police and others have been carefully noted, there is no specific evidence or reason to consider that the proposed kiosk's presence would encourage or increase crime or anti-social behaviour when taking into account that the design of the kiosk is not fully enclosed. Further, no details of CCTV cameras which might be obstructed have been provided. I am also mindful that there is nearby street lighting and natural surveillance of the appeal site, including from the reception for the office building and licenced premises. This is a neutral matter in the determination of this appeal.
19. Although an amended drawing has been provided by the appellant, the Council has identified that the internal layout of the proposed kiosk does not accord with the updated version of BS8300 – *Design of Buildings and their approaches to meeting the needs of disabled people*. However, there are no reasons for me to consider that the appellant would not fully accord the provisions of BS8300. The internal change required to the location of the equipment would not materially alter the assessment made concerning the siting and appearance of the appeal scheme. This is a neutral matter in the determination of this appeal.
20. Concerns have been expressed regarding the prospect of outside panels of the payphone kiosk being used for advertisements. The erection of a kiosk and the display of advertisements are distinct and separate matters requiring different applications. This appeal relates to the construction of a 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 my conclusion.

Conclusion

21. For the reasons given above and having regard to all matters raised, it is concluded that the appeal should be dismissed.

D J Barnes

INSPECTOR