
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/18/3195359

Pavement Adjacent to 81-87 High Holborn, London WC1V 6LS

- 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 2017/3555/P, form 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 and address are 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. To confirm the information provided, the pavement's width was measured during the site visit. The appellant has been given the opportunity to comment on this measurement but no response has been forthcoming.
4. 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.
5. 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.
6. 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), the *Pedestrian Comfort Guidance for London* (PCG) and the *Camden Planning Guidance* (CPG), insofar as they are relevant to matters of siting and appearance, have been taken into account.

Main Issues

7. 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

8. The appeal site is within the Bloomsbury Conservation Area where there is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. This duty is echoed in LP Policies D1 and D2. The *Conservation Area Statement* indicates that the significance of the area is it being an example of early town planning. The character of the Conservation Area derives from the grid of streets enclosed by mainly 3 and 4-storey buildings, which has a distinctly urban character of broad streets interspersed by formal squares that provide landscape dominated focal points. There is commentary in the *Statement* that in the vicinity of the appeal site the pavement widens and benefits from the presence of a number of street trees and there is the wide frontage of the 8-storey neo-classical Templar House, (81-87 High Holborn) which is identified as making a positive contribution to the Conservation Area.
9. Located on the opposite side of the road is the Grade II listed former Pearl Assurance Building, at Nos. 247-261 which is a grand Edwardian Baroque building now used as a hotel. Special regard is to be paid to the desirability of preserving Listed Buildings and their settings. The Framework also states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation and that significance can be harmed or lost through development within their setting.
10. The appeal site is located within a wide footway which is outside Templars House which has retail uses at ground floor. To the west is a controlled pedestrian crossing with its associated light columns and control box. To the east of the site there is an In Link UK freestanding telecommunication pedestal but this has the appearance of a double sided advertising sign rather than a kiosk. Other street furniture includes a lamp-post, 'A' board signs and temporary chairs and tables associated with cafés. There is a London Plane immediately adjacent to the site.

11. This appeal scheme would introduce a freestanding kiosk into the streetscene. By reason of the nature and siting of the street furniture along this part of the pavement, the erection of the proposed kiosk would not result in a particularly prominent form of development in its context. The assimilation of the proposed kiosk into the streetscene would be assisted by its lightweight design, similarity in scale to other kiosks and the screening afforded by the street tree. The appeal scheme would not, therefore, either result in an unacceptable level of street clutter or be an incongruous addition to the streetscene along this part of High Holborn. For the same reasons, the character and appearance of the Conservation Area would be preserved, its significance would not be harmed and the setting of the non-designated heritage asset of Templars House would be maintained.
12. By reason of the separation distance between the proposed kiosk and Nos. 247-261, the appeal scheme would not adversely affect the setting of this Listed Building. The setting of the Listed Building, which is principally associated with the frontage on the south side of High Holborn, would physically and visually be preserved. Views towards the heritage asset would be retained for pedestrians walking along the pavement adjacent to the proposed kiosk.
13. Accordingly, it is concluded that the siting of the proposed kiosk would not detract unacceptably from the character and appearance of the locality. Further, it would not 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

14. The kiosk would occupy a sizeable area of pavement which was observed to be heavily used by pedestrians, including those using the crossing. Based upon the measurements taken, there would remain a clear pavement width of more than 3.3 metres between the proposed kiosk and the front elevation of Templars House. This width would accord with the guidance contained in the in the SG, CPG and PCG.
15. However, the street tree adjacent to the appeal site is already a significant impediment to the flow of pedestrians and narrows the effective width of the pavement. Pedestrians have to make a choice of walking one side of the tree or the other. By reason of the close relationship between the siting of the proposed kiosk and the tree, the appeal scheme would effectively significantly reduce the option to walk between the tree and the carriageway.
16. The siting of the proposed kiosk would create a pinch point because the majority of the high level of pedestrian flow would be directed to walk between the tree and Templars House. The width of this part of the pavement is less than 3.3 metres and is further reduced by the temporary tables and chairs placed on the pavement by the café. In the absence of a more detailed assessment of the type identified in the PCG, the proposed kiosk would result in unacceptable interference with pedestrians.

17. 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

18. 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.
19. 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 include solar technology as a power source. However, the inconvenience which would be caused to other highway users associated with the siting of the proposed kiosk significantly and demonstrably outweighs these matters.
20. The Council has referred to the number of kiosks within the surrounding area which were noted during the site visit. However, these other kiosks are in locations that are some distance away from the site with a different character and surrounding context. Further, 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.
21. The general concerns of the Police and others have been carefully noted but 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 and it was observed that the view towards the appeal site was partially restricted by the street tree. I am also mindful that there is nearby street lighting and natural surveillance of the appeal site, including from the adjacent café. This is a neutral matter in the determination of this appeal.
22. 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.

23. 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.

Conclusion

24. Although the kiosk would not detract unacceptably from the character and appearance of the locality this matter is significantly and demonstrably outweighed by its siting unacceptably harming the convenience of other highway users. 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