



Appeal Decisions

Site visit made on 28 May 2024

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 1st July 2024

Appeal A Ref: APP/N5660/W/23/3334884

Phone Kiosk, Outside 14 Baylis Road, SE1 7AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (TCPA) against a refusal to grant planning permission.
 - The appeal is made by Saira Iqbal and Bilal Hassan against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 23/00239/FUL, dated 24 January 2023, was refused by notice dated 12 June 2023.
 - The development proposed is described on the application form as '*internal alterations. Hinge to be installed behind existing "PULL"*'.
 - The development proposed was described on the Decision Notice as '*Application for Full Planning Permission for the change of use of former telephone kiosk to coffee shop (Use Class E).*'
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Appeal B Ref: APP/N5660/Y/23/3334883

Phone Kiosk, Outside 14 Baylis Road, SE1 7AA

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Saira Iqbal and Bilal Hassan against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 23/00240/LB, dated 24 January 2023, was refused by notice dated 12 June 2023.
 - The works proposed are described on the application form as '*internal alterations. Hinge to be installed behind existing "PULL"*'.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the change of use of former telephone kiosk to coffee shop (Use Class E) at Phone Kiosk, Outside 14 Baylis Road, SE1 7AA in accordance with the terms of the application, Ref 23/00239/FUL, dated 24 January 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SE1 7AA.001; SE1 7AA.002; SE1 7AA.003; SE1 7AA.004; SE1 7AA.005; SE1 7AA.006; SE1 7AA.007; Design and Access Statement & Heritage Statement.
 - 3) All new external work and finishes and work of making good shall match the existing adjacent original work in respect of the materials, colour, texture, profile, and finished appearance, except where indicated

otherwise on the drawings hereby approved, or unless otherwise required by condition.

Appeal B

2. The appeal is allowed and listed building consent is granted for internal alterations. Hinge to be installed behind existing "PULL" at Phone Kiosk, Outside 14 Baylis Road, SE1 7AA in accordance with the terms of the application Ref 23/00240/LB dated 24 January 2024 subject to the following conditions:
 - 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
 - 2) The works hereby consented shall be carried out in accordance with the following plans: SE1 7AA.001; SE1 7AA.002; SE1 7AA.003; SE1 7AA.004; SE1 7AA.005; SE1 7AA.006; SE1 7AA.007; Design and Access Statement & Heritage Statement.
 - 3) The developer shall give the local planning authority 10 working days (that is Monday to Friday) advance notice of the start of any works and, for a period of 7 working days before any work takes place, access to the building shall be given to a person/body nominated by the local planning authority for the purpose of recording the building or interior by making measured drawings or taking photographs.
 - 4) Upon completion of the works authorised by this consent, any damage caused to the building in the course of carrying out the works shall be made good within 3 months in accordance with a scheme submitted to, and approved in writing by, the local planning authority.
 - 5) All new external work and finishes and work of making good shall match the existing adjacent original work in respect of the materials, colour, texture, profile, and finished appearance, except where indicated otherwise on the drawings hereby approved, or unless otherwise required by condition.

Procedural Matters

3. The planning application was made by 'Bilal and Hassan' on the application form; whereas the appeal was made by Saira Iqbal. Section 78 of the TCPA 1990 sets out that only the applicant (or their agent) may appeal a decision notice. I sought clarity from the Appellant and the Local Planning Authority, who both agreed that this appears to have been a clerical error. In the absence of any dispute between the parties on this matter, and on the basis that this is a genuine oversight by the person filling in the application form, I have proceeded on the basis that the Appellants are Saira Iqbal and Bilal Hassan.
4. The appeal form describes the development as: *'The proposed change of planning use classification will be for a take-away coffee shop E (formally A3). The aim of the proposal is to, bring to life, the red phone kiosk. The proposal will not change the character and appearance in any manner that will be at odds with the traditional character and fabric of the kiosk. The fully self-contained, non-bulky modular unit in the kiosk will not have any fixings to the shell or floor plate of the phone box and can easily be removed manually within minutes. There may also not be a need for a unit and simply a small table or*

stand placed inside. The kiosk will be serviced daily in respect of dry goods, water and saleable goods. Waste removal will be part of the same daily process, whereby the operators will remove any waste at the end of each day. The box is Grade II Listed and in Lower Marsh Conservation Area, so careful consideration has been given to preserving the box and its relationship to the conservation area.

The proposal does not impact the views and setting of both the locally listed kiosk and the adjacent locally listed building at 14 Baylis Road and the surrounding Lower Marsh Conservation area. The proposal aims to blend in with Lower Marsh Market and add value to the community.'

5. The Council's decision notices describe the proposal as '*Application for Listed Building Consent for the change of use of former telephone kiosk to coffee shop (Use Class E).*' Whilst not necessarily within my gift to change the description of the planning proposal, given the succinct nature of the Council's description and that it appears to reflect what is proposed in the submitted evidence I have adopted it to describe what planning permission has been granted for.
6. Given that a change of use relates to planning permission and not listed building consent, I have used the description for those works as set out by the listed building consent application form.

Main Issues

7. The main issue for appeal A is whether the proposed development would preserve the listed building or its setting or any features of special architectural or historic interest which it possesses and whether or not the proposal would preserve or enhance the character or appearance of the Lower Marsh Conservation Area.
8. The main issue for Appeal B is whether or not the proposed works would preserve the listed building or its setting or any features of special architectural or historic interest which it possesses.

Reasons

9. The appeal site comprises a cast iron K2 telephone kiosk of a design from around 1927 by Sir Giles Gilbert Scott. An iconic piece of street furniture, with a red square cast iron frame with a domed roof, perforated crowns to top panels and margin glazing to windows and door. The telephone box derives a great deal of its special interest from its status as a piece of iconic street furniture typical of historic London locales, and in this resides a considerable amount of its aesthetic and cultural significance. Its role in the rapidly evolving advances in communications technology over the past century is a strong contributory factor to the K2 design's evidential significance.
10. Whilst the listed building has seen some signs of neglect – through mindless vandalism for example from unknown parties (as detailed in the Design and Access Statement) - it nonetheless makes a positive contribution to the visual interest and character of both the street scene and the Lower Marsh Conservation Area. Visitors to the Conservation Area and area more generally are able to see and experience a unique part of Britain's communications heritage within an active street scene. The activity within the street scene; deriving from commercial uses and transient commuters as well as local residents - together with the nearby historic buildings contribute to the

significance of the Conservation Area and form a part of its character and appearance.

11. The proposal would see a currently unused historic red phone box used as a coffee shop. In reality, the proposals seek the use of the internal area for the siting of removable equipment to house a coffee machine and refuse area used in the kiosk by employees to make coffees for passing customers. The proposal does not necessarily seek any seating on the wide pavement area, nor does it seek any awnings or parasols or similar equipment to be sited on the pavement. If that was to occur, then they are other regulatory regimes which would likely consider such matters.
12. I note the point made by the Council that the door being open when in use would partly erode the clean and distinct lines formed when the phone box is closed. However, it is clear that part of the operation of the phone box is that customers would open the door to enter and use the phone. Admittedly this would be of a shorter duration than usage as a phone box. Nevertheless, it is clear that the door is there to be used a such and therefore it is logical to expect it to be opened and closed regularly.
13. In terms of the proposed use as a coffee shop I acknowledge the Council's concerns that this would be an ahistorical use of the building. Ideally, the historical use as a phone box would reflect best the original intention of the building's design. However, it is evident that use of the listed building for telecommunications is no longer considered necessary by phone providers given I have not been presented with any evidence of such. In the absence of such demand (which is not surprising given the dominance of mobile telephones) it makes sense to consider alternate uses for the heritage asset. The evidence before me gives examples of where the iconic 'red telephone box' has been used for alternate uses such as public libraries, salad bars, and other such uses. It is preferable that, in the absence of a telecommunications demand for the listed building other uses are found.
14. Moreover, the proactive use of a listed building, which is in itself a private asset, means that it can be actively used rather than lying empty and a potential target for vandalism or deterioration through weathering. The proposed use and alterations would not be especially intrusive to the fabric of the listed building. A small change to the 'pull' or handle area of the phone box to allow a locking mechanism to be put in place is not an adverse intervention. Furthermore, it has not been suggested by any party that any internal equipment or remnants thereof are of any specific historical or architectural significance. A reasonably light-handed conditions 3 and 4 to the listed building consent could ensure that any unknown historical features are recorded and/or preserved accordingly.
15. Internally there would be the provision of a coffee machine, table or stand for this, the storage of stock and also a small area for the storage of refuse. Again, such items would involve minimal intervention into or on the historic fabric of the listed building.
16. Taken in the round, whilst I acknowledge the Council's preferred use of the listed phone box is as a phone box, I find that the proposed use and associated alterations would, nonetheless, preserve the listed building and its significance. This includes preserving its setting and how future generations can continue to enjoy and experience it as an active and historical piece of street architecture.

Furthermore, it would continue to make a positive contribution to the character and appearance of the Conservation Area.

17. Accordingly, in giving considerable importance and weight to the desire to preserve listed buildings and their settings, and the character and appearance of the Conservation Area, as required by sections 16(2), 66(1) and 72(1) of the *Planning Listed Buildings and Conservation Areas Act 1990*, as amended, I find that the proposals in this instance would preserve the listed building, its setting, and the conservation area.
18. As such, I find that the proposal would not result in any harm to these designated heritage assets. The proposals would, therefore, with accord with policies Q20 and Q22 of the *Lambeth Local Plan 2020-2035* which, amongst other aims, seek to conserve the special interest of listed buildings and preserve or enhance the character or appearance of conservation areas by respecting and reinforcing the established, positive characteristics of the area.
19. I therefore find that for appeal A the proposed development would preserve the listed building or its setting or any features of special architectural or historic interest which it possesses, and the proposal would preserve or enhance the character or appearance of the Lower Marsh Conservation Area. For Appeal B, I find that the proposed works would preserve the listed building or its setting or any features of special architectural or historic interest which it possesses.
20. For the avoidance of doubt, were I to be incorrect in my assessment on heritage and instead the Council's view of less than substantial harm is the correct one, I find that the public benefits arising in this case; bringing back to life a heritage asset with a proactive use and thus enabling its ongoing maintenance and preservation, would outweigh that harm, which would be towards the low end of the less than substantial harm category.

Other Matters

21. I note that there have been comments both in support and in objection to the proposals. Those objecting to the proposals principally raise concerns as to the use of the phone box for serving coffee. I have considered these matters above and do not find that they justify the refusal of permission and consent for the reasons given above.

Conditions

22. The Local Planning Authority has suggested a handful of conditions to be imposed should permission be granted. The national Planning Practice Guidance and Paragraph 55 of the Framework set out that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Appeal A

23. Conditions relating to time limit for commencement and that the proposal is carried out in accordance with the submitted drawings are necessary and reasonable in order to provide certainty and for the avoidance of doubt. A condition requiring the use of matching materials is reasonable and necessary to preserve the listed building.

Appeal B

24. A condition relating to a limit for commencement is reasonable to provide certainty. Conditions requiring access to the Local Planning Authority for recording inside and/or outside the listed building, that any damage arising from the works is made good within 3 months, and that external works are made good, are reasonable and necessary to ensure that the listed building is preserved and any unknown features of architectural or historical interest are preserved and/or recorded as appropriate.

Conclusion

25. For the reasons given above, I conclude that both appeals should be allowed, subject to the conditions imposed.

C Parker

INSPECTOR