



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/18/3195372

Pavement Outside The Holborn Hotel, on the North Side of Theobald's Road at the Junction with Old Gloucester Street, London WC1B 4AR

- 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 2017/3549/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 allowed and approval is granted under the provisions of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), in respect of development by a telecommunications code system operator for the siting and appearance of x 1 telephone kiosk on the pavement at outside The Holborn Hotel, on the north side of Theobald's Road at the junction with Old Gloucester Street, London WC1B 4AR in accordance with the terms of the application Ref 2017/3549/P, dated 14 June 2017 (form dated 22 March 2017), and the plans submitted with it.

Procedural Matters

2. The description of development is taken from the appeal form to provide certainty of the proposal subject to the appeal. For the same reason, the location of the appeal site has been taken from the Council's decision notice. 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 policies contained in the London Borough of Camden Local Development Framework Core Strategy and the London Borough of Camden Local Development Framework Development Policies. However, since the determination of the appeal application, the Camden Local Plan (LP) has been adopted and its policies supersede those of the previous development plan documents. The reasons for refusal also referred to the draft Local Plan policies which are now adopted.
7. 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

8. 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

9. The appeal site is located within a wide footway that is outside The Holborn Hotel which, itself, is within a commercial area. To the west is a busy traffic light controlled junction. Around the junction are numerous items of street furniture, including bins, telephone kiosks of varying designs, traffic cameras, an information pedestal and various signs.
10. The pavement where the kiosk is proposed is wide and spacious in character and. This appeal scheme would introduce a freestanding kiosk into the streetscene adjacent to various columns, street railings and a tree. By reason of siting, the appeal site can reasonable be claimed to be within the street furniture zone along this part of the footway. No details of any tables or chairs being temporarily placed outside the hotel have been provided and none were observed during the mid-morning site visit.

11. The appeal scheme would not project into the more open character of the pavement adjacent to the hotel and, as such, it would not be a conspicuous or unduly prominent addition to the streetscene. Instead, the appearance of the proposed kiosk would be assimilated into the pattern and arrangement of existing street furniture. 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 Theobald's Road.
12. The site is adjacent to the Kingsway Conservation Area and there are Listed Buildings around the junction, including St Martins College of Arts and Design, Victoria House, the Kingsway Tram Subway and Avenue Chambers. 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.
13. By reason of the separation distance between the proposed kiosk and the Listed Buildings, together with the intervening roads and junction, the appeal scheme would not adversely affect the setting of these heritage assets. Views towards the Listed Buildings across the existing collection of street furniture associated with the traffic light junction would remain when walking along the footway from east to west. The glazed nature of the proposed kiosk would assist with maintaining views. For similar reasons, the setting of the Conservation Area would be preserved.
14. Accordingly, it is concluded that the siting of the 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

15. Although the pavement as measured is not as wide as initially identified by the appellant, there would remain a clear pavement between the proposed kiosk and the adjacent hotel frontage of some 5 metres. This width would be sufficient to ensure the comfort of pedestrians along this well used pavement and, as such, it would not conflict with the guidance contained in the SG, CPG and PCG. Further, because of its siting adjacent to the columns, street railings and tree, the proposed kiosk would be related to the street furniture zone which exists along this part of Theobald's Road rather than project into the pavement.
16. No temporary chairs or tables were observed to be placed outside the hotel. However, the narrowing of the pavement caused by the combination of the erection of the proposed kiosk and any tables and chairs would be similar to the width available between the street tree and the external seating area. The street tree already interrupts pedestrians who may seek to walk adjacent to the railings. Accordingly, this current interruption to the flow of pedestrians would not be materially changed by the siting of the appeal scheme.

17. Concern has been expressed about the potential for the proposed kiosk to obstruct visibility to the right for vehicles existing Old Gloucester Street. However, because of the proposed kiosk's siting away from the edge of the carriageway, the railing and other street furniture, there would be no material reduction in the current visibility splay for highway users. Further, the number of vehicles existing Old Gloucester Street is limited to those accessing the service area of the hotel and the car park of an adjacent office building.
18. On this issue, it is concluded that the siting of the kiosk would not unacceptably harm the convenience of other highway users. Further, it would not 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. 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

19. 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.
20. The appellant has referred to the principle of the development being supported by the Framework which encourages the development of telecommunication infrastructure to support sustainable economic growth. Furthermore, and subject to the location of the equipment, the kiosk would be accessible to those with impaired mobility and include solar technology as a power source.
21. The Council has referred to the number of kiosks within the surrounding area, including on the opposite side of the road and within the public realm to the east. However, these other kiosks are in locations 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.
22. 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 of the nearest traffic camera was already affected by the street trees. I am also mindful that there is nearby street lighting and natural surveillance of the appeal site, including from near-by cafés. This is a neutral matter in the determination of this appeal.
23. 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.

24. 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.

Conditions

25. The grant of prior approval for the payphone kiosk is subject to the standard conditions set out in the GPDO, including an implementation timescale, removal of the structure/apparatus when it is no longer required for electronic telecommunications purposes and accordance with the details submitted with the application. No further conditions are necessary to make the proposal acceptable.

Conclusion

26. For the reasons given above and having regard to all matters raised, it is concluded 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.

D J Barnes

INSPECTOR