



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/17/3180685

Pavement outside 7 Harben Parade, London, NW3 6JP

- 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 2017/2490/P dated 22 March 2017 was refused by notice dated 21 June 2017.
 - The development proposed is the installation of 1 x telephone box on the pavement.
-

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 box on the pavement at Pavement outside 7 Harben Parade, London, NW3 6JP in accordance with the terms of the application Ref 2017/2490/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. Reference has been made by various parties to there not being sufficient information to assess the proposal. 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 kiosk.
4. The Council have made reference to Core Strategy Policies CS5, CS11 and CS17 and Policies DP17, DP21 and DP24 of the Council's Development 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 (any related guidance including policies in emerging plans) 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 proposed free standing telephone kiosk 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 constructed with 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 appeal site is located to the front of a parade of shops in a busy pedestrian location. A variety of existing street furniture and street trees can be found along this section of Harben Parade, which are situated close to the carriageway. The proposal would be sited, between an existing lamppost and a tree. This setting would ensure that it is not visually prominent in the streetscene. The Council reference the over-proliferation of such structures, but the nearest telephone box is situated some distance to the south-east and those across the road, would also not be seen prominently with the appeal site. There are a number of other current appeal proposals¹ for telephone kiosks along Finchley Road, but due to the curvature of the road, and the distance from the appeal proposal, I do not consider that there would be an over-proliferation of such structures or that it would give rise to visual clutter when seen alongside other street furniture.
9. I note the concerns in relation to materials and design of the proposal, but find that the metal frame with large elements of glazing would give it a simple form. Its size, although somewhat larger than a standard telephone kiosk, would, in comparison to other street furniture, such as the nearby bus shelter, appear modest and I therefore consider that there would be no detrimental effect on the character of the area.
10. Concern has been raised in relation to the siting of the kiosk in close proximity to an existing telephone box giving rise to safety issues. I was not however able to see an existing adjacent telephone box on my site visit. The proposed kiosk, which would be largely glazed, would not unacceptably reduce sight lines

¹ APP/X5210/W/17/3180680 and APP/X5210/W/17/3180681

(including CCTV operation) or casual surveillance. A number of issues have been identified with the design of the kiosk. The Council have also provided a number of photographs which they state demonstrate crime or anti-social behaviour. I do not know the location or the circumstances of those kiosks, and I consider the open design of the kiosk and the natural surveillance of the site, would ensure that it is not unduly harmful in these respects.

11. The Council have identified concerns in relation to the wheelchair accessibility of the proposal. They state that the appellant has referenced an older version of the British Standards, and that the kiosk would fail to comply with the current British Standard (BS) 8300, which includes guidance on payphones outside of buildings. Some details of BS8300 have been provided, including reference to the telephone controls needing to be within the correct height range from the floor (0.75m-1m). Although the proposal would not meet this, I consider that the height of the telephone controls at 1.5m, would still be within the reach of a wheelchair user. Furthermore, it is not disputed that that the open design of the kiosk would allow for wheelchair access. As such, overall, despite the shortcomings identified, I consider that the siting and appearance of the proposal would not be unduly harmful in this respect.
12. The proposal would reduce the amount of clear footway, but given the overall width of the footway is around 6m, I consider that there would be sufficient space to ensure the safety and convenience of pedestrians. Despite the Council stating that the clear footway would be reduced below the minimum set out in the Council's Streetscape Design Manual, this document identifies a minimum of 3m (in busy pedestrian streets), which the proposal would exceed. The Council have made reference to two underground stations but these are not in the immediate vicinity of the site. Nevertheless, I acknowledge that it is a busy footway with frequent pedestrian movements, but from my site observations, pedestrians rarely use the land where the proposal is to be sited due to the presence of other street furniture in that linear area closest to the carriageway. Reference is also made to Transport for London's Pedestrian Comfort Guidance For London, which sets out a recommended minimum footway width (including street furniture) of 5.3m in high flow locations. The proposal would also meet this.
13. There is a bus stop situated on the road outside the appeal site but the bus shelter was positioned further along to its north-west. I recognise the guidance that the Council make reference to, but given the length of the bus stop, and the dimensions of the telephone kiosk, I do not consider that pedestrian movements, including specific user groups such as those using wheelchairs, would be unduly hindered. Consequently, I consider that the siting of the proposal would not have a detrimental effect on highway safety.
14. The Council have made reference to proposed schemes to install Cycle Super Highway Route 11 and reconfigure the Swiss Cottage Gyrotory which are said to be within the vicinity of the site. I have not been provided with the details of these, and therefore have no reason to consider that the siting of the kiosk, given the width of the pavement, would be harmful to the aims of these schemes.
15. 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.

16. 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.
17. 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

18. 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

19. 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