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## 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: 23<sup>rd</sup> July 2018**

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### **Appeal Ref: APP/X5210/W/17/3180682**

### **Pavement outside 85 Chalk Farm Road, London, NW1 8AR**

- 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 2017/2487/P dated 22 March 2017 was refused by notice dated 21 June 2017.
  - The development proposed is the installation of a telephone kiosk on the pavement.
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### **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 a telephone kiosk on the pavement at Pavement outside 85 Chalk Farm Road, London, NW1 8AR in accordance with the terms of the application Ref 2017/2487/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, CS14 and CS17 and Policies DP16, DP21, DP24 and DP25 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 (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.
6. The appeal site is situated close to a Conservation Area and a listed building. The Framework makes clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight attaches to the asset's conservation; the more important the asset, the greater that weight should be. Significance can be harmed through development within an asset's setting.

### **Main Issue**

7. 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, the setting of nearby heritage assets and the effect upon highway and pedestrian safety.

### **Reasons**

8. 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.
9. The application site forms part of the pavement on the northern side of Chalk Farm Road. It is located close to the Regents Canal Conservation Area and Roundhouse Theatre, which has been identified as a Grade II\* listed building.
10. The immediate area where the kiosk is proposed, is clear from other street furniture, but the proposal would be seen in the context of nearby cycle stands, bins and lampposts. It would however be sufficiently separate from other street furniture to not give rise to a cluttered appearance, albeit its larger scale to these other items and being somewhat larger than a standard telephone kiosk.
11. I recognise that the proposal would have a metal frame and large elements of glazing, but on the northern side of Chalk Farm Road, in the immediate surroundings to the appeal site, is a modern mixed-use building. The kiosk's modern and functional appearance would not appear as a substantial physical obstacle in this context. Although in my view, the appeal site does form part of the setting of the Conservation Area and listed building, the effect on their setting is lessened by the presence of, and the separation with the road. I

recognise the limited height and the transient nature of traffic, and also note the reference the Council makes to the surrounding fascia signs being flush to the building's façade. However, I was able to see the Grade II\* listed Roundhouse Theatre on my site visit, and from my observations, the proposal would not be prominent in long views of the listed building. I do not therefore consider that the proposed kiosk would be unduly harmful to the setting of the listed building or the nearby Conservation Area. Its siting and appearance would also not detract from the character and appearance of the area.

12. Concern has been raised in relation to the siting of the kiosk adjacent to an existing telephone box giving rise to safety issues, but I was not able to see any such existing telephone box that the Council make reference to on my site visit. The proposed kiosk, which would be largely glazed, would not unacceptably reduce sight lines (including of CCTV) or casual surveillance, as has been stated. I do not therefore consider that the siting and appearance of the kiosk would be harmful in terms of crime and anti-social behaviour.
13. 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. I have not been provided with the full details of BS8300 but it has been stated that the proposed telephone controls would not be within the correct height range from the floor (0.75m-1m). Whilst this may be the case, 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 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.
14. The proposed kiosk would result in the loss of 1.8m of footway, but the Council have not set out how the clear footway would be reduced below the minimum threshold. The footway is according to the Council, around 5.3m wide, discounting the area used for parking. Following the proposal, there would remain around 3.5m. Taking into account the higher pedestrian flows that the Council refer to, the Council's Streetscape Design Manual sets out a minimum of 3m (in busy pedestrian streets), with the Transport for London's Pedestrian Comfort Guidance For London, setting out a 5.3m overall footway width (in high flow locations). I was able to visit the appeal site in the lunchtime busy period referred to by the Council, and was able to see some pedestrian movements where the appeal site is located. However, due to the presence of other street furniture and trees, which the proposal would broadly align with, most pedestrians used those sections of the footway closer to the adjacent buildings. Whilst there may not have been a Pedestrian Comfort Level Assessment undertaken, and it may be the case that pedestrian volumes increase in the future, I consider the footway would remain sufficiently wide to not impede pedestrian movements.
15. The appeal site would be adjacent to parking bays that are partly sited on the footway. The proposal would have dimensions that are greater than other street furniture, but from the information available before me, there would be sufficient room to not impede people getting in and out of their vehicles. The longer parking bays also allow for the appropriate parking of vehicles. There is

- also no substantive evidence before me that the proposed kiosk would interfere with any signals, cause a visual obstruction or unduly affect visibility splays.
16. The Council have made reference to the proposed Chalk Farm and Primrose Hill scheme which are intended to create a high quality place and improve pedestrian comfort. They also refer to an option to create a cycle track. I have not been provided with any details of these schemes or their current status. Given the width of the pavement, I have no reason to consider that the siting of the proposal would be unacceptable in this regard.
  17. 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.
  18. 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.
  19. 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**

20. 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**

21. 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