



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/18/3195358

Pavement Outside 71 High Holborn, London WC1V 6EA

- 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 2017/3557/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 dismissed.

Procedural Matters

2. The description of development is 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), *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

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, that has a distinctly urban character of broad streets interspersed by formal squares which provide landscape dominated focal points.
9. The proposed kiosk would be sited on the pavement outside Mid City Place which is a 10-storey office building that is clad with a glass and metal curtain wall. The metal pillars are sited forward of the front elevation of the building. The *Conservation Area Statement* identifies that the height and bulk of the building give it landmark status but this is softened by the six-storey element fronting the road respecting the height of neighbouring buildings in High Holborn. At ground floor level there are retail units including a Sainsbury Local store. The street furniture along the pavement in-front of the building includes cycle parking, bench and an Info Kiosk which are clustered together. There are also control boxes and columns for a pedestrian crossing, lamp-posts and a refuse bin. The street furniture in the vicinity of the appeal site is limited and the pavement has an open character and appearance.
10. The existing items of street furniture are located adjacent to the carriageway and the proposed kiosk would reflect their siting. However, this appeal scheme would introduce a freestanding kiosk into the streetscene. Although within the street furniture zone adjacent to the carriageway, because of its scale and prominent siting the appeal scheme would be a particularly noticeable development. Further, the appeal scheme would introduce street furniture into part of the pavement along High Holborn where the street furniture is limited and thereby marking the beginning of clutter.

11. Although principally glazed, the scale and design of the kiosk, together with its prominent siting, would result in it appearing overly dominant and incongruous within the streetscene thereby causing unacceptable harm to the spacious character and appearance of this part of the pavement. This unacceptable harm would fail to preserve the character and appearance of the Conservation Area, including the open character of the pavement along High Holborn adjacent to the site. In making this assessment the contemporary design of the Mid City Place and the commercial uses around the site have been taken into account.
12. However, the extent of harm to the significance of the heritage asset would be less than substantial. In such circumstances, the Framework advises to weigh harm against the public benefits associated with a proposal. This is reflected in LP Policy D2. 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, the kiosk would be fully accessible to those with impaired mobility and use solar technology as a power source. Although the harm of the appeal scheme to the Conservation Area would be less than substantial, these public benefits do not outweigh the harm which has been identified.
13. Accordingly, it is concluded that the siting of the kiosk would detract unacceptably from the character and appearance of the locality. Further, it would 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. During the site visit it was observed that there is a high flow of pedestrians walking along the pavement, including those accessing the Sainsburys Local store and using the crossing both of which are adjacent to the appeal site. Based upon the measurements taken, the pavement width between the front elevation of the store and the kerb is 4.9 metres. However, this measurement does not take into account the metal columns and bollards adjacent to Mid City Place which narrow the effective usable width of the pavement by around 0.8 metres.
15. By reason of siting and footprint, the proposed kiosk would reduce the available width of the footway to 2.9 metres, excluding any consideration of the 0.8 metre frontage zone for the building which contains the columns and bollards. With such a consideration, the clear width of usable pavement would just satisfy the Council's SG and CPG but it would not accord with the PCG for the high flow of pedestrians which were observed. 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.
16. 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

17. 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.
18. 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. However, the Framework also seeks high quality design and telecommunications equipment that is sympathetically designed. For the reasons given, this would not be the case.
19. The Council has referred to the number of kiosks within the surrounding area. However, these other kiosks are in locations that are some distance away from the site with a different character and surrounding context, including the Info Kiosk which forms part of a cluster of street furniture. 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.
20. 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. I am also mindful that there is nearby street lighting and natural surveillance of the appeal site, including from the adjacent shops. This is a neutral matter in the determination of this appeal.
21. 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.
22. 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

23. 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