



Appeal Decision

Site visit made on 5 June 2018

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th September 2018

Appeal Ref: APP/X5210/W/17/3180694

Land adjacent to 85 Clerkenwell Road, London EC1R 5AR

- 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 (as amended).
 - The appeal is made by Mr Tom Fisher on behalf of Euro Payphone Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2017/2491/P, dated 22 March 2017, was refused by notice dated 21 June 2017.
 - The development proposed is 'installation of a telephone kiosk under permitted development rights'.
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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 a telephone kiosk at land adjacent to 85 Clerkenwell Road, London EC1R 5AR in accordance with the terms of the application Ref 2017/2491/P, 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. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed payphone kiosk that falls within the permitted development rights of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), subject to the prior approval requirements under paragraph A.3. The appellant applied to the Council on that basis. The Council determined that prior approval was required and it was refused for the siting and appearance of the payphone kiosk.
 3. The Council makes reference to Policies A1, C5, C6, D1, D2 and T1 of the Camden Local Plan 2017; Policies CS5, CS11, CS14 and CS17 of the London Borough of Camden Local Development Framework Core Strategy; and Policies DP21, DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies document. However, the principle of
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development is established by the GPDO and the prior approval provisions include 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 on the basis of its siting and appearance, taking into account any representations received. Nonetheless, I have had regard to the above-mentioned policies and related guidance referred to in so far as they are relevant to matters of siting and appearance.

4. The National Planning Policy Framework (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, considerations such as need for the payphone kiosk are not a relevant matter. However, the appeal site is within the Hatton Garden Conservation Area and statutory requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The Framework 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.

Main Issue

5. The main issue is whether or not approval should be given in respect of the siting and appearance of the proposed kiosk, with particular regard to whether it would preserve or enhance the character or appearance of the Hatton Garden Conservation Area, the effect on highway and pedestrian safety, and the effect on crime and anti-social behaviour.

Reasons

6. The location of the proposed kiosk is the pavement on the south side of Clerkenwell Road, between its junctions with Leather Lane and Hatton Garden. The kiosk would be positioned in front of No 85, a six storey building apparently in commercial use.
7. The appeal site is within the Hatton Garden Conservation Area, which covers approximately 20 hectares west of Farringdon Road. Its historic character derives largely from its industrial, commercial and residential buildings of the late nineteenth to mid twentieth centuries, combined with an intricate street pattern. This part of the area generally reflects these broader characteristics, but there is a diverse mix of original and more modern buildings including above the commercial and retail uses at street level. No 85 is an older building, which makes a positive contribution to this part of the conservation area.
8. The kiosk would be positioned close to the pavement at a point where this widens considerably in front of No 85, moving westwards from Hatton Garden towards Leather Lane. There is limited existing street furniture in the immediately surrounding area, with cycle stands immediately to the west of the appeal location and lighting columns to the east. I acknowledge also that a

Legible London sign nearby has been removed but will be replaced soon. The most significant feature in this regard is relatively large public toilets adjacent to the Leather Lane junction.

9. The kiosk would be highly visible in this open setting, but its relatively slim frame and laminated glass panels means that it would not be a bulky or otherwise visually incongruous addition. Moreover, due to the limited existing street furniture it would not result in cumulative visual clutter. From most surrounding views its modest scale would be framed by the substantive multi-storey buildings and its appearance would be appreciated against the busy commercial context at street level. From views to the north on the opposite side of Clerkenwell Road, the kiosk would be seen against the attractive, more muted backdrop of No 85. However, it would also be seen in the context of the much larger and bulkier public toilets nearby. As such, its siting and appearance seen against the scale and appearance of existing street features would not lead to such a material change that it would not preserve the character and appearance of this part of the conservation area.
10. With regard to the effect on highway and pedestrian safety, I acknowledge that this is a heavily-used pedestrian route as I observed during the inspection. The kiosk would be positioned close to the pavement edge and in line with the adjacent cycle stands, but it would protrude further onto the pavement than these existing features. The Council indicates that detailed drawings were not provided to enable a full appreciation of the effects of the kiosk's position. However, the appeal submissions do include an illustrative diagram of the position of the kiosk and the remaining area of pavement. This information, all the other submitted material and the site inspection enabled me to consider the effect of the proposal on its merits.
11. The main parties and Transport for London (TfL) refer to the TfL *Pedestrian Comfort Guidance*, which provides recommended footway widths for different levels of pedestrian flow. In areas of high flow such as this the unobstructed pavement width should be no less than 3.3 metres. Even allowing for the forecourt area in front of No 85, with the kiosk in place the extent of remaining pavement would exceed this recommended width. This would allow for eastward and westward travelling pedestrians to pass each other utilising what would remain a broad extent of pavement area.
12. Those pedestrians using the desire line between the toilet block and road would not be caused significantly to divert their path because of the limited protrusion of the kiosk beyond the cycle stands. I was able to observe these effects at the inspection during a period of high footfall and I am satisfied that no harmful effects would result from the kiosk's siting in this location. I was also able to use the nearby pedestrian crossing close to the kiosk's location. Due to the straight stretch of road, set back of the kiosk and overall good visibility, the kiosk's position would not compromise the safety of pedestrians using this crossing. For similar reasons, its siting would not adversely affect highway safety with regard to driver visibility from the Hatton Garden and Leather Lane junctions.

13. I note that there are aspirations for a scheme of public realm improvements within the site's vicinity and specific reference is made to the Leather Lane/Farringdon scheme. However, I am unaware of further details or firm proposals that would have a direct bearing on the proposal before me, which in any case, I have found would not be unacceptably harmful with regard to its siting and appearance. This matter cannot, therefore, have a determinative effect on the appeal's outcome.
14. With regard to the potential for crime and anti-social behaviour associated with the kiosk, this is a busy commercial location with a wide pavement to the road frontage and a number of night-time uses nearby and residential occupancy above street level. Consequently, it is an area of public realm that is well-used and open to surveillance. Moreover, the open design of the kiosk and use of glass panels means that users of the kiosk would remain largely visible from the surrounding public realm. I am unaware of other kiosks within the vicinity that would have a bearing on this matter and I have no other reasons or evidence to suggest that the siting of the kiosk in this location will realise the concerns that have been raised. Similarly, examples of kiosks in other locations that have been subject to such criminal or anti-social behaviour are not a sufficient reason to find against the current proposal.
15. The Council also indicates that the kiosk would not be properly accessible to wheelchair users. However, the provisions of the GPDO require a local planning authority to assess the proposed development solely on the basis of its siting and appearance. As this matter, including compliance with any British Standards relating to accessibility, does not fall within the specific scope of these issues relating to prior approval, I cannot take account of it as having a direct bearing on the appeal's outcome. In reaching this view I have had full regard to the Public Sector Equality Duty.
16. Accordingly, for all the above reasons, I conclude that the siting and appearance of the proposed kiosk would preserve the character and appearance of the Hatton Garden Conservation Area and would not have an unacceptably harmful effect on highway and pedestrian safety, or on crime and anti-social behaviour. Therefore, the appeal should succeed.

Conditions

17. 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.

Conclusion

18. For the reasons given above and having regard to all matters raised, I conclude that the appeal should succeed and prior approval be granted subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO.

J Bell-Williamson INSPECTOR