



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/18/3195374

Pavement outside 133 Clerkenwell Road, London EC1R 5DB

- 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 2017/3550/P, dated 22 March 2017, was refused by notice dated 7 August 2017.
 - The development proposed is 'installation of 1 x 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 a telephone kiosk on the pavement outside 133 Clerkenwell Road, London EC1R 5DB in accordance with the terms of the application Ref 2017/3550/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 D1, D2, G1, A1, C6, T1 and C5 of the Camden Local Plan 2017. However, the principle of 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
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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 the busy Clerkenwell Road close to its intersection with Grays Inn Road and Theobalds Road. The kiosk would be positioned close to the pavement edge in front of No 133, which has a retail frontage at ground floor, with a number of street trees immediately in front of this and neighbouring shops.
7. The Hatton Garden Conservation Area 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. The area around this part of Clerkenwell Road is characterised by large multi-storied buildings with commercial and retail uses at street level and attractive Victorian facades above this, apparently in residential and office use.
8. There is a limited amount of street furniture along either side of this stretch of Clerkenwell Road. Three cycle stands are positioned parallel to the road adjacent to the location of the proposed kiosk, with a free-standing wayfinding column just beyond the stands. There are no other telephone kiosks visible within the immediately surrounding area.
9. While the kiosk would have a larger footprint than the adjacent stands and sign, as a piece of street furniture its position and scale would also be seen in the

context of existing larger lighting columns and traffic lights. Its relatively slim frame and laminated glass panels means that it would not be a bulky or otherwise obtrusive visual addition in this location; and due to the limited existing street furniture it would not result in cumulative visual clutter.

10. The positive character and appearance of this part of the conservation area derives from the original upper storeys and historic facades of the large blocks either side of the road. The limited scale and modern appearance of the kiosk would be viewed not against this background but principally against the busy commercial street level with its retail and other signage, street furniture and high levels of vehicular and pedestrian traffic. As such, it would reflect and preserve, rather than harm, the character and appearance of the area directly related to its siting.
11. Turning 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 in line with the adjacent cycle stands and wayfinding column but due to its size, 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.
12. The main area of pedestrian usage is between the street trees and pavement edge. Due to its position slightly forward of the other trees, the tree opposite the wayfinding column results in a narrower gap than would be the case between the kiosk and the nearest opposite tree. As such, the position of the kiosk would not narrow this section of pavement more than is already the case with regard to the position of existing street furniture and trees. Moreover, the width of the remaining pavement would be no narrower than that further down Clerkenwell Road, eastwards beyond No 131, which carries similar pedestrian volumes.
13. 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. I observed that while the main desire line is between the trees and pavement, pedestrians do also use the area between the trees and shop fronts, providing additional capacity in an area of high usage. I consider, therefore, that the total width available with the kiosk in position would meet this recommended requirement.
14. Taking these findings as a whole, I conclude that the existence of the kiosk would not materially change the current situation to the extent that it would cause unacceptable harm to highway and pedestrian safety. While I note that there are aspirations for a scheme of public realm improvements within the site's vicinity, I am unaware of further details that would have a direct bearing on the proposal before me and, therefore, this matter cannot have a determinative effect on the appeal's outcome.

15. With regard to the potential for crime and anti-social behaviour associated with the kiosk, this is a busy commercial location, with a number of night-time uses nearby and which is 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. Other kiosks within the wider surrounding area do not have a sufficient direct relationship with the proposed location that any cumulative effect would lead to greater risk of crime or anti-social behaviour occurring. While there may be examples of such behaviour related to other kiosks in the wider area, for the reasons given this is insufficient basis to assume that it will also occur in this specific location.
16. The Council refers to the existence of other telephone kiosks along Grays Inn Road and therefore questions whether the current proposal is required. However, as noted above, the principle of development is established by the GPDO and therefore considerations such as need for the kiosk are not a relevant matter.
17. 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.

Other Matters

18. The Council's additional reason for refusal is that the kiosk would not be accessible to wheelchair users. However, as already noted, 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.

Conditions

19. 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

20. 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