The Planning Inspectorate

Appeal Decision

Site visits made on 12 July 2018

by F Rafiq BSc (Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2018

Appeal A Ref: APP/B4215/W/18/3192637
Pavement outside 399-401 Oxford Road, Manchester, M13 9BL

- 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 Manchester City Council.
- The application Ref 116354/TEL/2017 dated 22 March 2017 was refused by notice dated 5 July 2017.
- The development proposed is the installation of a telephone kiosk.

Appeal B Ref: APP/B4215/W/18/3193698
Pavement outside 308 Oxford Road, Manchester, M13 9NS

- 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 Manchester City Council.
- The application Ref 116996/TEL/2017 dated 22 March 2017 was refused by notice dated 6 September 2017.
- The development proposed is the installation of a telephone kiosk.

Decisions:

Appeal A

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 outside 399-401 Oxford Road, Manchester, M13 9BL in accordance with the terms of the application Ref 116354/TEL/2017, dated 22 March 2017, and the plans submitted with it.

Appeal B

2. 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 outside 308 Oxford Road, Manchester, M13 9NS in accordance with the terms of the application Ref 116996/TEL/2017, dated 22 March 2017, and the plans submitted with it.

Procedural Matters

3. I have utilised the description of development from the respective appeal forms as this provides certainty of the proposal subject of each appeal. I have also taken the address on Appeal B partly from the Council's decision notice, as both the application and appeal forms refer to an incorrect address; the address and the correct postcode for this appeal have been confirmed by the appellant. 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 subject to each of the two appeals.

4. The Council have made reference to various development plan 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 a Supplementary Planning Document) 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 kiosk are not a relevant matter.

6. A listed building is situated in the vicinity of the Appeal B site. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be paid to the desirability of preserving listed buildings and their settings. 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.

7. Concerns have been raised on the possible addition of an advertisement on the kiosks. However, the construction of a telephone kiosk and the display of advertisements are distinct and separate matters requiring different applications. Appeals A and B relate to the construction of a kiosk only and not any advertisement consent that may otherwise be required. I have determined the appeals on that basis.

8. Reference has been made to appeal decisions on other sites, but I am not aware of the full circumstances of those cases or the details of regeneration efforts and improvements to the environment taking place within the City Centre. I can confirm that I have considered these appeals on their own merits.

Main Issues

9. The main issues are whether or not approval should be given in respect of the siting and appearance of the developments, having regard to the character and appearance of the area, the setting of a nearby heritage asset (Appeal B) and the effect upon highway and pedestrian safety.

Reasons

10. The appeals relate to two free standing telephone kiosks that would consist of the same design, with a broadly rectangular form with dimensions of 1.32m by 1.11m and a height of 2.45m. The telephone kiosks would be constructed with a powder coated metal frame and laminated glass. They would have open sides to allow wheelchair access and solar panels would be included at roof level.

Appeal A

11. The telephone kiosk subject of this appeal would be situated on Oxford Road, outside No's. 399-401. Its location would be in an area where the pavement widens, with a number of street trees, cycle stands and a bin to the south. Further to the north, a cycle lane separates the main pavement to an 'island' pavement area, that contains bus shelters. Given the separation between the proposed kiosk and the other nearby street furniture items, as well as the presence of street trees or planting areas, which separate many of the existing and this proposed street furniture items, this appeal proposal would not appear prominent or give rise to a cluttered appearance.

12. The Council have raised concerns on the utilitarian appearance of the proposal and the lack of design finesse. I acknowledge the kiosk would have a simple design, but the use of a metal frame and large elements of glazing as illustrated on the submitted plans, would give it a modern and functional appearance. I do not agree that the frame would be unduly heavy based on the plans or that the structure would be overly large for a telephone kiosk given the dimension set out. As the kiosk elevations would be open or have large elements of glazing, its appearance would be one of a lightweight structure. Although there are a variety of different street furniture items in the area around the appeal site, the use of glazing that is set within a frame, together with the kiosk having a flat roof form, would see the proposal reflect the design of the nearby bus shelters.

13. I acknowledge that Oxford Road is subject to a high pedestrian footfall, which was evident at the time of my site visit. The proposed kiosk is in an area where the pavement widens, and would be in line with other street furniture items to the south. I do not therefore consider that pedestrians would be unduly impeded and as the cycle lane is separated from the pavement, I have no reason to find that the proposed kiosk would have an adverse impact on its operation.

14. The siting of the telephone kiosk affecting sight lines has also been identified as a concern. The kiosk would however be set away from the kerb, and it would be open and have large elements of glazing permitting views through it. There is a pedestrian crossing facility close to site at the junction of Oxford Road and Grafton Street, where most pedestrian crossing movements across Oxford Road were taking place at the time of my visit. As a result, I do not consider

that there would be a harmful impact on the safety of highway users arising from the proposal.

15. Concern has been raised that the siting of the kiosk within the city centre would provide increased opportunities for antisocial behaviour and crime. The proposed kiosk would however be largely glazed and have an open side which would provide a good degree of natural surveillance, particularly given the siting close to bus shelters and outside a convenience store. I note the concerns in relation to the lack of maintenance of existing phone kiosks and the potential for fly-posting, but I do not consider that, in terms of siting and appearance, that the kiosk would be harmful in terms of antisocial behaviour and crime.

16. 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.

Appeal B

17. This appeal consists of a free-standing telephone kiosk on the opposite side of Oxford Road to Appeal A. It is situated on an area of pavement close to No. 308 Oxford Road. There are few items of street furniture around the appeal site, other than a number of slender posts supporting signs, light and traffic signals, as well as a bin. An existing kiosk can be seen to the south of the site, but the separation and presence of a number of trees near this other kiosk, would ensure that the proposal would not be prominent in the same views and thereby would not unduly add to street clutter.

18. As with Appeal A, the Council have raised concerns on the utilitarian appearance of the proposal and the lack of design finesse. It would have a simple design, but the use of a metal frame and large elements of glazing, would give it a modern and functional appearance. I do not consider that the square section design to be in itself unacceptable. The frame would not be unduly heavy based on the plans nor the structure overly large for a telephone kiosk given the dimensions set out. As the kiosk elevations would be open or have large elements of glazing, its appearance would be one of a lightweight structure. It would furthermore not be directly seen alongside other similar sized street furniture items, and as such, I do not find its design would detract from the character and appearance of the area.

19. Reference has been made to the proposal interrupting views of a Grade II* listed building. The proposal would, however, be located close to No. 308 Oxford Road, with the listed building at Grove House, being situated further away to the south of the site. As a result of this separation, and the glazed and open form of the proposal, I do not consider that the telephone kiosk would interrupt views to the detriment of this heritage asset.

20. The proposal would reduce the width of the footway, but the Appellant has stated the unobstructed footway would be over 9.88m in width following the proposal. As such, I do not consider that the kiosk would adversely affect the movement of pedestrians along this busy pavement. Its open and glazed design referenced earlier, would also ensure that views of pedestrians would not be unduly restricted. I do not therefore consider the appeal development would give rise to unacceptable harm in this respect.

21. I have noted the concerns expressed in relation to increased opportunities for antisocial behaviour and crime that would arise. However, I consider the glazed and open design of the proposed kiosk would provide a good degree of natural surveillance and thereby not create an unsafe environment. The lack of maintenance of existing phone kiosks and the potential for fly-posting has also been raised, but I do not consider that, in terms of siting and appearance, that the kiosk would be harmful in terms of antisocial behaviour and crime.

22. I, therefore, conclude that the proposed kiosk with respect to its siting and appearance, would not harm the character and appearance of the area, the identified heritage asset or highway and pedestrian safety, which justifies the grant of prior approval.

Conditions

23. The grant of prior approval for the kiosks 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

24. For the reasons given above and having regard to all matters raised, I conclude that the appeals 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