The Planning Inspectorate

Appeal Decision

Site visit 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 Ref: APP/B4215/W/18/3192985
Pavement outside 115 Deansgate, Manchester, M3 2NW

- 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 116350/TEL/2017 dated 22 March 2017 was refused by notice dated 10 July 2017.
- The development proposed is the installation of a telephone kiosk.

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 outside 115 Deansgate, Manchester, M3 2NW, in accordance with the terms of the application Ref 116350/TEL/2017, dated 22 March 2017, and the plans submitted with it.

Procedural Matters

2. I have taken the description of development from the appeal form as this provides certainty of the proposal subject of this appeal. 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 this appeal.

3. 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.

4. 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 the need for the telephone kiosks are not a relevant matter.

5. The appeal site is located within a Conservation Area, with a listed building also situated in the area. The 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. Section 66 of the same Act 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.

6. Concerns have been raised on the possible addition of an advertisement on the kiosk. However, the construction of a telephone kiosk and the display of advertisements are distinct and separate matters requiring different applications. The 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.

7. 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 this appeal on its own merits.

Main Issues

8. The main issues are 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 heritage assets, and the effect upon highway and pedestrian safety.

Reasons

9. The appeal site forms part of the pavement on Deansgate, close to the junction with John Dalton Street. It is situated on the western edge of, but within the Albert Square Conservation Area (Conservation Area). The Conservation Area contains a number of large civic buildings as well as statues and other structures. This built form, alongside the openness of Albert Square and other open spaces, gives the Conservation Area an open and distinctively civic character.

10. The appeal proposal consists of a free standing telephone kiosk that would be situated close to the edge of the pavement. Apart from a number of street trees, the other nearby street furniture items are mainly low level bollards or slender items such as street lights and a nearby street sign mounted on posts.

As such, given the nature of the surrounding street furniture, I do not consider the addition of this kiosk would unduly add to street clutter.

11. The Council have raised concerns on the utilitarian appearance of the proposals and the lack of design finesse. The proposal would have a broadly rectangular form and be constructed with a powder coated metal frame and laminated glass, which I find would give it a simple form. I do not agree that the frame would appear heavy based on the plans or that the structure would be overly large for a telephone kiosk given the dimension set out. As the elevations would be open or have large elements of glazing, the appearance of the kiosk would be one of a lightweight structure.

12. The Council have made reference to the listed building at No. 138 Deansgate, but this is sufficiently separated from the site, being located on the opposite side of the road, closer to the signalised junction. The proposed kiosk would largely be seen against the modern building at No. 115 Deansgate, which has predominantly glazed elevations at ground floor level, and I do not therefore consider that there would be any detrimental impact on the listed heritage asset. The small scale nature of the proposal, which would have dimensions of 1.32m by 1.11m and a height of 2.45m, as well as is largely glazed form would also ensure that there is no unacceptable adverse impact on the open character of the Conservation Area.

13. 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, on this busy road. 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.

14. The pavement where the appeal proposal is to be sited, was busy with pedestrian activity. The kiosk would be located in a linear zone that already contains other street furniture items. Although it would be wider than many of the existing street furniture, from my site observations, pedestrians movements were away from the location of the appeal site. Furthermore, given the remaining width following the proposal that would be unobstructed, there would be no unacceptable impact on users of the pavement.

15. I acknowledge the site is close to a signalised box junction, but traffic travelling south along Deansgate will have already passed this junction before reaching the location of the proposal. Whilst the kiosk would be visible to traffic, and I acknowledge the high levels of vehicular activity, I do not consider the proposal would result in an undue distraction to passing and queuing motorists, as it would appear as a typical, functional piece of street furniture.

16. The kiosk affecting sightlines has also been identified as a concern. The proposed kiosk would however be open or have large elements of glazing permitting views through. As such, the appeal development would not be unduly harmful in this respect.

17. I, therefore, conclude that the proposed kiosk with respect to its siting and appearance, would not unacceptably harm the character and appearance of the

area, the identified heritage assets or highway and pedestrian safety, which justifies the grant of prior approval.

Conditions

18. 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

19. 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