The Planning Inspectorate

Appeal Decision

Site visits made on 6 July 2018

by F Rafiq BSc (Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th September 2018

Appeal A Ref: APP/B4215/W/17/3190057
Outside Heron House, Albert Square Manchester, M2 5HD

- 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 116349/TEL/2017 dated 22 March 2017 was refused by notice dated 10 July 2017.
- The development proposed is the installation of a telephone kiosk.

Appeal B Ref: APP/B4215/W/17/3190061
Outside 2-10 Albert Square, Manchester, M2 6LW

- 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 116992/TEL/2017 dated 22 March 2017 was refused by notice dated 29 August 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 Heron House, Albert Square Manchester, M2 5HD in accordance with the terms of the application Ref 116349/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 2-10 Albert Square, Manchester, M2 6LW in accordance with the terms of the application Ref 116992/TEL/2017, dated 22 March 2017, and the plans submitted with it.

Procedural Matters

3. I have taken the description of development from the respective appeal forms, as this provides certainty of the proposal subject of each appeal. For Appeal B, I have also utilised the address from the appeal form and decision notice as this more accurately describes the location of the development. 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 kiosks 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 the need for the telephone kiosk are not a relevant matter.

6. Both appeal sites are situated within the Albert Square Conservation Area (Conservation 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. A number of listed buildings are also situated in the area around the appeal sites. 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.

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, upon heritage assets and the effect upon highway and pedestrian safety.

Reasons

10. The appeals relate to two telephone kiosks that would be located on the western side of Albert Square. The free standing structures 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. It would have an open side to allow wheelchair access and solar panels would be included at roof level.

11. The appeal sites are situated within the Conservation Area which is centred on Albert Square and contains a number of large civic buildings as well as statues and other structures. Although the Town Hall and to a lesser extent, the other larger buildings have a domineering effect on the area, the openness of the Square, as well as the presence of the trees, gives the Conservation Area an open and distinctively civic character.

12. Both kiosks would be situated close to the edge of the pavement, where various other street furniture can be seen. In respect of Appeal A, these other street furniture items are limited to slender bus stop posts and bins. The addition of this kiosk would not therefore unduly add to street clutter. The Appeal B kiosk, in addition to nearby bins and posts, would be positioned closer to a group of cycle stands. These existing items are however at a low level or slender in design, and as a result, I do not consider that the proposal would give rise to a cluttered appearance.

13. The Council have raised concerns on the utilitarian appearance of the proposals and the lack of design finesse. The kiosks would have a simple design, with the use of a metal frame and large elements of glazing, giving them a modern and functional appearance. I do not agree that the frames would appear heavy based on the plans or that the structures would be overly large for telephone kiosks given the dimension set out. As the elevations would be open or have large elements of glazing, the appearance of the kiosks would be one of lightweight structures.

14. There is a difference between the design of the appeal proposals and other street furniture items, but I do not consider this to be necessarily harmful, as there is wide variation in the appearance of existing street furniture items within the Conservation Area. The kiosks would also be situated away from the open area of the Square, on the opposite side of the vehicular carriageway. They would not therefore appear as visually intrusive features and there would not be a detrimental effect on the open character of the Conservation Area.

15. The appeal kiosks would also be situated to the front of more modern buildings and away from nearby listed buildings. Although the Council state the kiosks would interrupt views of Grade I, Grade II* and Grade II listed buildings, I

consider there would be limited such interruptions due to the proposed location of the kiosks in relation to these buildings. The kiosks would only affect such views of the Town Hall and other listed buildings and statues from certain areas of the pavement on the western side of Albert Square, and even then, given the open and glazed design, as well as the dimensions of the kiosks, I do not consider that there would be any unacceptable harm on these heritage assets.

16. Concern has been raised that the siting of the kiosks within the city centre would provide increased opportunities for antisocial behaviour and crime. The proposed kiosks would however be largely glazed and have open sides, which would provide a good degree of natural surveillance. 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 kiosks would be harmful in terms of antisocial behaviour and crime.

17. The appeal sites are situated in a busy city centre area, which has a high pedestrian footfall. The proposed kiosks would reduce the width of the footway, but they would be positioned within a linear zone that already contains various other street furniture items, and would therefore be away from pedestrian desire lines. Whilst the kiosks would be located adjacent to bus stops or loading bays, their limited width and depth would ensure that they would not unduly affect pedestrian movements boarding or alighting from a bus or unacceptably affect the operation of the loading bays. The kiosks affecting the sightlines has also been identified as a concern. The kiosks would be open or have large elements of glazing permitting views through. As such, the appeal development would not be unduly harmful in this respect.

18. I, therefore, conclude that the proposed kiosks with respect to their 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

19. 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

20. 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