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/17/3190041
Pavement outside 49-51 Piccadilly, Manchester, M1 2AP

- 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 116986/TEL/2017 dated 22 March 2017 was refused by notice dated 6 September 2017.
- The development proposed is the installation of a telephone kiosk.

Appeal B Ref: APP/B4215/W/17/3190043
Outside 1 Piccadilly, Manchester, M1 1RG

- 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 116345/TEL/2017 dated 22 March 2017 was refused by notice dated 5 July 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 49-51 Piccadilly, Manchester, M1 2AP in accordance with the terms of the application Ref 116986/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 1 Piccadilly, Manchester, M1 1RG in accordance with the terms of the application Ref 116345/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. 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 kiosks are not a relevant matter.

6. Appeal A is situated within the Stevenson Square Conservation Area (Conservation Area) and Appeal B just outside it. 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 kiosks 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 nearby 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 opposite sides of Piccadilly. 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 A kiosk would be sited within the Conservation Area, with the Appeal B one being situated close to it. The Conservation Area contains buildings from the Victorian and early-20th Century periods that reflect the area's industrial heritage. Piccadilly in the vicinity of the site mainly contains buildings that are four and five storey storeys and constructed in a variety of styles. A number of the buildings are listed and the scale of these buildings, as well as the rich level of detailing and decoration contributes to the significance of the Conservation Area.

Appeal A

12. The telephone kiosk subject of this appeal would be situated on the north-eastern side of Piccadilly, close to the edge of the footway. I was able to see a range of other street furniture in the area, but these were mainly situated in a linear zone, along the line of the street trees. The area where the appeal proposal would be situated is closer to the edge of the pavement. The pavement is wider in this area and was generally clear of larger street furniture items, other than a bus shelter to its north-west. I do not therefore consider that it would give rise to a cluttered appearance, despite the appeals site's prominent location.

13. The Council have raised concerns on the utilitarian appearance of the proposal and the lack of design finesse. I acknowledge its 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 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.

14. There is a difference between the design of the appeal proposal 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 proposal would be seen in views of nearby listed buildings, but there are many other street furniture items, including other telephone kiosks that are situated much closer to the listed buildings along this section of Piccadilly. As such, I do not consider that the telephone kiosk

subject of this appeal, would be unduly intrusive. Wellington's Statue, also Grade II listed, is separated from the appeal site by a road. Given the distance and the presence of passing traffic, I do not consider that there would be any undue harm to the setting of this listed building.

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. 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. The appeal site is situated in a busy city centre area, which has a heavy pedestrian footfall. The proposed kiosk would reduce the width of the footway, but based on the considerable overall width, there would be a sufficiently wide footway remaining to not unduly impede pedestrians. I was able to see the presence of a large number of street furniture items, but these are mainly situated in a linear area away from the appeal site, and I do not therefore consider that the capacity of the footway would be unduly affected.

17. The siting of the telephone kiosk at the edge of the footway has also been identified as a concern in terms of reducing visibility. The kiosk would however be set away a short distance from the kerb, and it would be open or have large elements of glazing permitting views through. I note the presence of the bus stop and the signalised junction, as well as the levels of vehicular traffic on the road. However, from my site observations, most pedestrian movements were away from the appeal site, in linear movements along the frontage of properties on Piccadilly, and those crossing Portland Street using the pedestrian crossing, rather than along this section of the pavement where the appeal proposal is to be located. As such, the appeal development would not be unduly harmful in this respect.

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

Appeal B

19. Appeal B consists of a free-standing telephone kiosk on the south-western side of Piccadilly. Other than a bus shelter and a group of cycle stands, there are only more slender street furniture items in the vicinity of the site. I do not therefore consider that the proposed kiosk would unduly add to street clutter.

20. 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. 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. Although the design of the appeal proposal would be different to other street furniture, given the variation that exists in the design of these

items, I do not consider that it would detract from the character and appearance of the area.

21. Wellington's Statue, which is Grade II listed, is located to the north-west of the appeal site and the appeal proposal forms part of its setting. I do not however consider that the proposed kiosk would be prominent in views of it, given its glazed and open form, and the presence of a bus shelter closer to the listed statue. Similarly, the Conservation Area is situated nearby, with the boundary running along the line of vehicular carriageway on Piccadilly, but due to the presence of a range of street furniture items in the area, I do not find that the appeal kiosk would be unduly harmful to its setting.

22. I also consider the proposed kiosk, which would however be largely glazed and have an open side, 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 kiosk would be harmful in terms of antisocial behaviour and crime.

23. Concerns have been raised on the siting of the telephone kiosk, affecting the width and permeability of the pavement in a location with heavy footfall. I acknowledge the appeal site is situated in a busy city centre area, close to Piccadilly Gardens, but the majority of pedestrians were not passing along this section of pavement. The proposal would result in a pavement with a reduced clear width but given the generous overall width of the footway, I do not consider it would unduly impede pedestrians, or wheelchair and pushchair users. The telephone kiosk would be sited at the edge of the footway, but as it would have a largely open form, permitting views through it, the views of pedestrians would not be unduly restricted. As such, I do not consider this appeal development would give rise to unacceptable harm in this respect.

Conditions

24. 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

25. 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