The Planning Inspectorate

Appeal Decision

Site visit 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 Ref: APP/B4215/W/17/3190119
Pavement outside Arndale Centre Carpark, Shudehill, Manchester, M4 4AF

- 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 116352/TEL/2017 dated 22 March 2017 was refused by notice dated 5 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 Arndale Centre Carpark, Shudehill, Manchester, M4 4AF, in accordance with the terms of the application Ref 116352/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 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 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 need for the telephone kiosk are not a relevant matter.

5. 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. 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.

6. 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

7. 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, and the effect upon highway and pedestrian safety.

Reasons

8. The appeal proposal is for a free standing telephone kiosk that would have a broadly rectangular form with dimensions of 1.32m by 1.11m and a height of 2.45m. The telephone kiosk would be constructed with a powder coated metal frame and laminated glass.

9. The telephone kiosk subject of this appeal would be situated on Shudehill, immediately adjacent to the circular ramp which provides access to the Arndale Centre Car Park and a short distance from a bus station. The car park entrance has a circular form, with the ramp overhanging the pavement in the vicinity of the appeal site. There are a number of cycle stands and signposts on this stretch of pavement, with barriers and railings also separating pedestrians from the car park access and egress areas. Given that there is limited existing street furniture, other than mainly low level items and slender posts/signs, the proposed kiosk would not give rise to a cluttered appearance.

10. The appeal site is clearly seen along Shudehill, but views are dominated by the large dark coloured brick and concrete car park which is seen to its rear. In this context, the proposal would not appear unduly assertive. The simple design, which would make use of a metal frame and large elements of glazing, would give it a modern and lightweight appearance. It would not appear as an unduly heavy structure or appear incongruous in the streetscene.

11. 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

vehicular and pedestrian movements in the area. 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.

12. The pavement was busy with pedestrians movements at the time of my visit in the late afternoon, but from site observations, there was a steady flow of footway users who were able to move unhindered. The proposal, as an additional piece of street furniture would reduce the width of the footway, but, given the pavement is wide at this point, with a remaining width, according to the Appellant of over 6.34m following the proposal, I do not consider that pedestrians, including those with pushchairs or wheelchairs, would be unduly impeded.

13. There is a signalised junction just to the east of the appeal site, which the Council state would result in the proposal distracting passing and queuing motorists. The telephone kiosk would appear as a typical, functional piece of street furniture and although it would be visible to traffic, I have no reason to consider that it would be unduly distractive. I do not therefore consider the appeal development would give rise to unacceptable harm in this respect.

Conditions

14. 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

15. 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