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/17/3190047
Outside 39 Parker Street, Piccadilly Plaza, Manchester, M1 4AJ

- 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 116439/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/17/3190053
Outside 6A Piccadilly Plaza, Parker Street, Manchester, M1 1AJ

- 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 116346/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 39 Parker Street, Piccadilly Plaza, Manchester, M1 4AJ in accordance with the terms of the application Ref 116439/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 6A Piccadilly Plaza, Parker Street, Manchester, M1 1AJ in accordance with the terms of the application Ref 116346/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 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 number of listed buildings are also 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 nearby heritage assets (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. It would have an open side 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 Parker Street, close to the edge of the footway. The site is situated adjacent to the bus station, where a range of bus shelters and bus stop posts can be seen, mainly in the central island around which buses circulate. The proposal would however be situated on the south western side of Parker Street, where there are few other street furniture items, ensuring that the development would not give rise to a cluttered appearance. I note the prominent location of the appeal site, but the proposal would be seen in the context of large buildings on this side of Parker Street, including the high-rise City Tower.

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.

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, particularly given the siting adjacent to the bus station. 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. I was able to see at the time of my visit that Parker Street had a heavy pedestrian footfall. The proposed kiosk would reduce the width of the footway, but given its overall width, there would be a sufficiently wide footway remaining to not unduly impede pedestrians. Reference has been made to pedestrian flows on Oxford Road being impeded, but the appeal site is situated on Parker Street, well away from the former road.

15. The siting of the telephone kiosk affecting sight lines has also been identified as a concern. The kiosk would however be set away a short distance from the kerb, and it would be open and have large elements of glazing permitting views

through it. From my site observations, most pedestrian movements across Parker Street towards the bus stands were made utilising the zebra crossing to the north of the site and there would therefore be no harmful effect on the safety of highway users arising from the proposal.

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. Appeal B consists of a free-standing telephone kiosk outside 6A Piccadilly Plaza. The bus station is located to the west of the site with tram lines passing to the front of the site on Mosley Street. There are few items of street furniture around the appeal site, other than slender posts and a bin. The addition of the proposal would not therefore 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 and although reference has been made to the proposal not reflecting the design of other street furniture items, there are few such items in the area to reference. 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 not therefore detract from the character and appearance of the area.

19. Reference has been made to a number of listed buildings, but these are located on the opposite side of the road. Given the separation and the intervening tram infrastructure, including posts and wires, as well as the glazed and open form of the proposal, I do not consider that the telephone kiosk would be unduly harmful to the setting of the listed buildings.

20. I also consider this glazed and open design of the proposed kiosk, would provide a good degree of natural surveillance and thereby not create an unsafe environment. 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.

21. The appeal site is situated in the city centre, and close to the bus station. Reference has been made to the Metrolink platforms, but other than the tram tracks and associated infrastructure, there were no such platforms in the immediate vicinity of the site. I do however acknowledge that the area around the appeal site was busy at the time of my visit and that the proposed kiosk would reduce the width of the footway. The Appellant has however made reference to the unobstructed footway being over 5.38m in width following the proposal. As such, I do not consider that the kiosk would adversely affect the permeability of the pavement to the detriment of pedestrian movements, including wheelchair users and those pedestrians with pushchairs.

22. The telephone kiosk would be positioned towards the edge of the pavement, but given its open and glazed design referenced earlier, the 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.

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