The Planning Inspectorate

Appeal Decision

Site visit made on 23 January 2018

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 13 February 2018

Appeal Ref: APP/B4215/W/17/3188953
Pavement outside 3 St Mary's Gate Manchester M1 1PX

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr Tom Fisher (Euro Payphone Ltd) against the decision of Manchester City Council.
- The application Ref 116343/TEL/2017, dated 22 March 2017, was refused by notice dated 10 July 2017.
- The development proposed is prior approval for the installation of a telephone kiosk.

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the installation of a telephone kiosk at pavement outside 3 St Mary's Gate, Manchester M1 1PX in accordance with the terms of the application Ref 116343/TEL/2017, dated 22 March 2017, and the plans/documents submitted with it.

Procedural Matters

2. In the interests of clarity and precision, the description of the development used above has been taken from the appeal form and the Council's decision notice.

3. Whilst certain deemed consent rights exist for the display of advertisements on telephone kiosks, or express consent may be sought for such, this appeal relates solely to the installation of a telephone kiosk.

4. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed telephone kiosk 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 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. The appellant applied to the Council on that basis.

5. As the principle of development is established, considerations such as need for the telephone kiosk are not a relevant matter. The Council determined that

prior approval was required and refused. Accordingly the main issues are as below.

Main Issues

6. The main issues are:

- The effect of the siting and appearance of the proposed kiosk on the character and appearance of the surrounding area bearing in mind its location adjacent to the St Anns Square Conservation Area.
- The effect of the siting and appearance of the proposed kiosk on highway and pedestrian safety.
- Whether the siting and appearance of the proposed kiosk would cause an increase in crime and disorder in the area.

Reasons

Character and appearance

7. The appeal site is located adjacent to a taxi rank and on the relatively wide pavement of a busy commercial street. This side of the street is relatively uncluttered by street furniture. However, the opposite side of the street is much more cluttered and includes freestanding illuminated advertisement panels.

8. Adjacent buildings are relatively modern and have substantial scale, mass and height and comprise retail and commercial properties on the ground floor with the retail frontage having high glazing panels fitted between grey powder coated metal frames. The boundary of the St Anns Conservation Area is located approximately in the centre of the road such that the properties on the opposite side of the street lie within the Conservation Area.

9. The proposed kiosk would be metal framed with extensive glazing panels and would be open sided to facilitate access for wheelchair users. It would have a simple, modern, lightweight design. It would be sited approximately 0.6m from the kerb edge and would be aligned with the position of existing street furniture in terms of its relationship with the road. The appellant indicates that the proposed position of the kiosk would enable approximately 3.46m of unobstructed footway to remain following its installation.

10. The contemporary appearance of the kiosk would not be out of kilter with the modern commercial character of its surroundings. Given the width of the street and the design and scale of adjacent buildings the appearance and placement of the kiosk would assimilate with its surroundings and would not appear prominent. As such, it would not deplete the character of the surrounding streetscene to any material degree.

11. Whilst the proposed kiosk would undoubtedly add to the amount of structures in the area, there would be an acceptable separation distance between it and the adjacent street paraphernalia and the buildings on the northern side of the street. This spacing combined with its lightweight appearance would avoid the impression of the kiosk adding harmful clutter to the area.

12. The proposed kiosk would be inter-visible to some degree with the Conservation Area. However, I have found that the proposed kiosk would

assimilate with its surroundings. In addition, given the small scale nature of the proposed kiosk in the context of the width of the street, the scale of adjacent buildings, and the extent and nature of street furniture on the opposite side of the street, the proposed kiosk would not appear at odds with the character of the street. These factors also lead me to conclude that the proposal would cause no harm to the character, appearance or significance of the Conservation Area.

13. Taking into account the above factors, the siting and appearance of the proposed kiosk would cause no material harm to the character and appearance of its surroundings. Neither would the proposed development harm the significance or setting of the adjacent Conservation Area and would thus preserve its character and appearance. Consequently, the proposal would accord with design, appearance and conservation aims of Policies DM1, EN1, EN3, CC9 of the Manchester Local Development Framework – Core Strategy Development Plan Document 2012 (Core Strategy) and Saved Policies E3.3, DC17.1 and DC18.1 of the Unitary Development Plan for the City of Manchester 1995 (UDP).

14. Although the Council also suggests that the proposal would conflict with Saved Policy DC19.1 of the UDP, this policy relates to development that may have an impact on Listed Buildings. I have no evidence in this case that would suggest that the proposed development is within the setting of a Listed Building or would affect such setting. I note that the Grade II Listed Royal Exchange Building is located to the east of the appeal site. However, I consider that the appeal site is located an adequate distance from the Listed Building such that it's setting would not be harmed. Consequently, I have attached no weight to the provisions of this policy in the consideration of this appeal.

Highway and pedestrian safety

15. In considering the width of unobstructed footway that should be maintained in new development for the installation of structures on the street, the appellant has referred to the guidance provided in the Department for Transport's 'Manual for Streets (2007)' and the 'Inclusive Mobility (2005)' documents. These require a minimum unobstructed footway width of a least 2m to remain. In addition, the Council's 'Design for Access 2 (2003)' document suggests that there should be a minimum of 1.8m of footway clear of obstructions and that street furniture should be placed a minimum of 0.45m from the kerb face with the road.

16. The proposed position of the kiosk would meet the requirements of these guidance documents with an unobstructed footway width of 3.46m remaining between the kiosk and the adjacent building. In being in line with existing street furniture it would not cause any obstruction to pedestrian flows. In any event, I observed that pedestrians here generally walk closer to the building frontages. I consider it unlikely that many would walk along close to the edge of the kerb (including those with visual impairments) as this part of the footway is already obstructed by the adjacent street lighting columns and other street furniture. As such, pedestrian movement would not be compromised by the siting of the proposed kiosk.

17. The vehicular use of St Mary's Gate is restricted to predominantly taxis and there is no through route for general traffic. Consequently the street is lightly trafficked. The horizontal and vertical alignment of St Mary's Gate is relatively

straight and flat with good highway and pedestrian visibility and inter-visibility. As the proposed kiosk is a relatively small structure and taking into account its proposed position in being aligned with the existing street furniture and being set back from the kerb edge in accordance with the Council's 'Design for Access 2' document, the proposal would not result in any significant deterioration in visibility for any road users.

18. Taking the above factors into account, I conclude that the proposed siting of the kiosk would not significantly harm highway and pedestrian safety and nor would it cause any material inconvenience for highway users. As such, there would be no conflict with Policies CC4, CC10, DM1, EN1 and SP1 of the Core Strategy or Saved Policy E3.3 of the UDP. These policies, amongst other things, require development to take road safety into consideration and maintain a high standard of accessibility across all spaces.

Crime and disorder

19. The GDPO and the National Planning Policy Framework establish that, in planning terms, payphones are, in principle, an acceptable form of development. Insofar as the Council's concerns regarding a potential increase in anti-social behaviour, flyposting and resulting in an increase in crime and disorder, I have little evidence before me as to how the proposed kiosk would cause such impacts.

20. The proposed location would be open to wide public surveillance. The design of the proposed kiosk with open sides and glass panels would also provide for natural surveillance within the kiosk itself. Whilst I accept that fly posting could occur, I observed at my site visit that a similar designed kiosk located relatively close to the appeal site near the junction of St Mary's Gate and Deansgate did not display any significant evidence of vandalism or fly postings at the time of my visit. As such, I have little evidence to suggest that such concerns are a problem in the area. Furthermore, I note that Greater Manchester Police did not specifically object to the proposed siting of the kiosk.

21. Taking the above factors into account, I am satisfied the proposed kiosk would perform a public function and I have no demonstrable evidence to suggest that its proposed siting would cause an increase in crime and disorder in the area. Although, some of the policies of the development plan that the Council has referred to have tenuous links to matters of crime and disorder, I do not consider that there would be any conflict with Policies CC4, CC10, DM1, EN1 and SP1 of the Core Strategy or Saved Policy E3.3 of the UDP. These policies, amongst other things, require development proposals to take into account community safety and crime prevention and contribute to the health, safety and wellbeing of residents. In addition, and for the same reasons, I do not consider that there would be any conflict with Policy 8 of the Council's 'Guide to Development in Manchester Supplementary Planning Document and Planning Guidance 2007' document.

22. The Council has referred to a conflict with Policy T1 of the Core Strategy with regard to the effect of the development on crime and disorder. However, the requirements of this policy relate to sustainable transport and in my view has little relevance, if any, to the Council's concerns regarding the issue of crime and disorder. Consequently, I have attached minimal weight to the requirements of this policy in the consideration of this issue.

Other matters

23. I have taken into account the Council's concern that the proposal would have a negative effect upon regeneration efforts and improvements to the environment taking place within the area. However, there is no substantive evidence before me regarding any detailed proposals or the effect that these may have on the appeal site. Consequently, I have attached minimal weight to this matter and I have determined the appeal within the parameters of the GPDO.

24. I have also taken into account the concerns of an interested party who consider that the motivation for such applications for prior approval is to develop a ubiquitous network of advertising panels. This appeal relates solely to the installation of a telephone kiosk and does not provide for any advertisement consent pursuant to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, as amended. As such, I attach little weight to these concerns.

25. A number of allowed appeal decisions for similar development have been submitted in support of the proposal. However, I do not have full details of the nature of the proposals or the circumstances relating to these appeals to make any meaningful comparisons with the appeal before me. Consequently, I cannot be sure that these are entirely representative of the circumstance in this appeal and, in any case, I have determined this appeal on its own merits.

Conditions

26. The Council has not suggested any other conditions in addition to the standard condition set out in Schedule 2, Part 16, paragraph A.2 of the GPDO and I consider that no additional conditions are necessary.

Conclusion

27. For the above reasons, and having taken all other matters raised into account, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR