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: 15 February 2018

Appeal Ref: APP/B4215/W/17/3188956
Pavement outside 23 – 25 Market Street, Manchester M1 1WR

- 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 116989/TEL/2017, dated 22 March 2017, was refused by notice dated 29 August 2017.
- The development proposed is prior approval for the installation of a telephone kiosk.

Decision

1. The appeal is dismissed.

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

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 and within sight lines of the Royal Exchange which is a Grade II Listed Building.
- The effect of the siting and appearance of the proposed kiosk on the safety of the pedestrian environment.
- Whether the siting and appearance of the proposed kiosk would cause an increase in crime and disorder in the area.

Reasons

Character and appearance

6. The appeal site is on the wide pavement of a relatively long covered pedestrianised walkway on Market Street. It is located towards the eastern end of the covered walkway. Although there is a freestanding illuminated advertisement panel at the western end of the covered walkway, a characteristic feature of this part of the street within the covered section is that street furniture is limited to two litter bins on each side of the street which are located opposite each other and aligned with the position of the original kerb edge of the road. Although this section of the street has a sense of enclosure due to the roof over the street, the pedestrian environment is wide and uncluttered and has a uniform and spacious character.

7. Adjacent buildings comprise retail and commercial properties on the ground floor. The boundary of the St Anns Square Conservation Area is located to the west of the covered walkway and includes the Royal Exchange Building which is a Grade II Listed Building.

8. The proposed kiosk would be located on the northern side of the street. It 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 of the original road position and would be aligned with the position of refuse bins in terms of its relationship with the road. The appellant indicates that the proposed position of the kiosk would enable approximately 3.48m of unobstructed footway to remain to the north following its installation.

9. Other than the presence of the litter bins, the proposed kiosk would be located on an area of Market Street that is largely devoid of street furniture. Although it would be of a simple design, given the paucity of street furniture in the immediate locality, the proposal would appear as a prominent and intrusive feature at odds with the prevailing open character of this part of the street. In addition, the proposal would harm the visual symmetry that currently exists on both sides of the road and would downgrade the quality of the public realm.

10. Given the distance of the appeal site to the Conservation Area boundary, views from within or towards the Conservations Area from the street would not be materially altered. Although parts of the Exchange Building can be viewed from the appeal site, owing to intervening distance and the fact that the kiosk

would be located within the covered section of the street, I do not consider that the proposed location of the kiosk can be reasonably considered to be within the setting of the Listed Building. These factors lead me to conclude that the proposal would cause no harm to the character, appearance or significance of the Conservation Area or the setting of the Listed Building. However, these matters do not outweigh the harm that would be caused to the character and appearance of the surrounding area.

11. I therefore conclude that the proposed development would cause harm to the character and appearance of the area. Therefore the proposal would be contrary to the design and appearance of Policies DM1, EN1, CC9 and SP1of the Manchester Local Development Framework – Core Strategy Development Plan Document 2012 (Core Strategy) and Saved Policy E3.3 of the Unitary Development Plan for the City of Manchester 1995 (UDP). These policies, amongst other things, require that proposals should consider the impact of development on the character of the area.

12. As I have found that the proposal would cause no harm to the character, appearance or significance of the Conservation Area or the setting of the Listed Building, there would be no conflict with Policy EN3 of the Core Strategy or Saved Policies DC18.1 and DC19.1 of the UDP. These policies, amongst other things, require that development should preserve the character and appearance of heritage assets.

Pedestrian environment

13. 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.

14. Given the pedestrianised nature of Market Street, pedestrians are able to use the full width of the street. The proposed position of the kiosk would meet the requirements of the above guidance documents. Notwithstanding the fact that the full width of the street is pedestrianised, an unobstructed footway width of 3.48m would remain between the kiosk and the adjacent buildings.

15. Market Street has a high degree of pedestrian movements and the proposal would introduce a small localised obstruction to pedestrian flow. However, the proposed kiosk is a relatively small structure and taking into account the useable width of the street the proposal would not result in any significant impediment to pedestrian flow or cause any material depreciation to pedestrian sightlines.

16. Taking the above factors into account, I conclude that the proposed siting of the kiosk would not significantly harm the safety of the pedestrian environment. 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

17. 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.

18. 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 other kiosks in the vicinity of the appeal site did not display any significant evidence of vandalism or fly postings. 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.

19. 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.

20. 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, it has little relevance, if any, to the Council's concerns regarding crime and disorder. Consequently, I have attached minimal weight to the requirements of this policy in the consideration of this issue.

Other matters

21. 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.

22. 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.

23. 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.

Conclusion

24. I have found that the proposal would not have a detrimental effect on the safety of the pedestrian environment and would not cause an increase in crime and disorder in the area. In addition, there would be no harm to the character, appearance or significance of the Conservation Area or the setting of the Listed Building. However, these matters do not outweigh the harm that would be caused to the character and appearance of the surrounding area.

25. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR