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: 21 February 2018

Appeal Ref: APP/B4215/W/17/3188960
Pavement outside 52 Cross Street, Manchester M2 7AR

- 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 116990/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 within the St Anns Square Conservation Area and within the setting of Grade II Listed Buildings.
- 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

6. The appeal site is on the relatively wide pavement of Cross Street and is close to a group of Grade II Listed Buildings comprising Nos 36 – 54 Cross Street and lies within the St Anns Conservation Area. The nearest Listed Building to the appeal site is Thomas's Chop House, located slightly to the north, which is quite distinctive within the streetscene in being a relatively ornate red brick and buff terracotta. I consider that the proposed kiosk would be positioned within the setting of these Listed Buildings.

7. A characteristic feature of this part of the street is that street furniture is relatively minimalistic and is predominantly confined to litter bins, lighting columns and road signage. As such the footway appears as being relatively uncluttered and has a uniform and spacious character. In addition, this part of the Conservation Area is characterised by grand commercial buildings with elaborate detailing set at the back of wide footways. Although the buildings nearby are of differing designs, they share similar ornate architectural detailing that contributes to this part of the street having a homogenous appearance.

8. The appeal site is located close to the crossroads junction of Cross Street with King Street which I observed at my site visit has a high degree of pedestrian and vehicular movements. The frontages of the nearby Listed Buildings are quite prominent in views from within the street and from the busy junction. The proposed kiosk would be positioned in a similar position to the edge of the footway as exists with the majority of the existing street furniture. However, the minimal steel framed design and dark grey colouration of the proposed kiosk would be inconsistent with the lively architecture and homogenous appearance of the street. Owning to the limited amount of existing street furniture it would appear as a prominent and intrusive feature that would fail to assimilate with its surroundings and would also fail to integrate with the character of this part of the street.

9. The introduction of an incongruous and prominently positioned feature would appear at odds with the character of the street and would introduce an element of clutter to the area that would downgrade the quality of the public realm and deplete the character of the surrounding streetscene. Consequently, the proposal would not preserve the setting of the Conservation Area. However, due to the small scale of the development this harm would be less than substantial.

10. Turning to the effect of the proposal on the adjacent Listed Building, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant permission for development which affects a listed building or its setting, special regard must be given to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. Paragraph 132 of the National Planning Policy Framework also requires that great weight should be given to the conservation of heritage assets.

11. The minimal, steel framed, design of the proposed kiosk, together with its asymmetric plan, would be inconsistent with the ornate architecture of its immediate surroundings. Given its proximity to Thomas's Chop House, it would interrupt views of this Listed Building and obscure parts of the ground floor frontage, particularly in views from the junction of Cross Street with King Street. In such views the proposed kiosk would appear as an anomalous feature in front of the building.

12. Due to the resulting prominence of the proposed kiosk, its siting close to the façade of the Listed Building and its inconsistency with the surrounding architecture, it would cause harm to the setting of the Listed Building and the context within which it is experienced, although due to the small scale of the proposed development, this harm would also be less than substantial.

13. Paragraph 134 of the Framework requires that where a development proposal would lead to less than substantial harm to designated heritage assets, this harm should be weighed against the public benefits of the proposal. Whilst the telephone kiosk would contribute to the provision of a telecommunications network, there is no substantive evidence before me that would indicate that there are notable deficiencies in public telecommunications provision within the area and, consequently, I give this only very limited weight.

14. I have also noted the appellant's points that the proposed telephone kiosk would be accessible to wheelchair users, and that photovoltaic panels are to be utilised to provide internal lighting, nonetheless, neither of these factors overcomes the great weight that must be given to the conservation of the heritage assets.

15. I therefore conclude that the proposed development would cause harm to the character and appearance of the area, the setting of the Smithfield Conservation Area and the setting of the adjacent Listed Building which would therefore not be preserved. Therefore the proposal would be contrary to the design, appearance and conservation aims of Policies DM1, EN1, EN3, CC9 and SP1 of the Manchester Local Development Framework – Core Strategy Development Plan Document 2012 (Core Strategy) and Saved Policies E3.3, DC17.1, DC18.1 and DC19.1 of the Unitary Development Plan for the City of Manchester 1995 (UDP). These policies, amongst other things, require that development should consider the city's heritage, complement heritage features and seek to preserve and enhance the setting of Listed Buildings.

Highway and pedestrian safety

16. 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.

17. The proposed position of the kiosk would meet the requirements of these guidance documents with an unobstructed footway width of 4.18m 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, the appeal site is located at a position where the footway width slightly narrows to accommodate a parking bay and, as such, 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 furniture. As such, pedestrian movement would not be compromised by the siting of the proposed kiosk.

18. Although Cross Street is used by the Metrolink trams and has traffic flows in both directions, the horizontal and vertical alignment of the street 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.

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

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

21. 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 flyposting 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 flyposting. As such, I have little evidence to support the Council's concerns.

22. Greater Manchester Police recommend that the kiosk's location be reconsidered, as the proposal could create issues due to the narrow footpath which may lead to easy pick-pocketing and anti-social behaviour. However, I have no conclusive evidence to demonstrate how this would be the case.

Furthermore, I have no evidence that would support the view that the siting of telephone kiosks is a contributory factor to an increase in crime and disorder.

23. 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.

24. 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 crime and disorder. Consequently, I have attached minimal weight to the requirements of this policy in the consideration of this issue.

Other matters

25. 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, I have no 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.

26. 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.

27. 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

28. 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