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: 20 February 2018

Appeal Ref: APP/B4215/W/17/3188959
Pavement on Cross Street, Manchester M1 1PW

- 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 116348/TEL/2017, dated 22 March 2017, was refused by notice dated 5 July 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. The address has also been taken from the decision notice as it is clear that the appeal site is located on Cross Street and not outside the frontage of 26 Market Street as shown on the application form.

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 relevant matters. 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 the setting 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 relatively wide pavement of Cross Street, close to the junction with Market Street. The proposed kiosk would be located on the eastern side of the street. The boundary of the St Anns Conservation Area is located approximately in the centre of the road such that the western half of the street lies within the Conservation Area. On the opposite side of the road is the Royal Exchange which is a Grade II Listed Building.

7. A characteristic feature of this part of the street is the absence of telephone kiosks and that the street furniture has a relatively uniform simplistic design which comprises litter bins, street lights, cycle stands, benches and street trees that are regular well-spaced and set at a relatively uniform position and alignment relative to the edge of the footway. As such the footway appears as being relatively uncluttered and has a uniform and spacious character.

8. Given the visual components of this part of the street identified above, the appearance of the pavement is simple, unified and uncluttered. The footway in the vicinity of the appeal site therefore makes a positive contribution to the character and appearance of this part of the street.

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 and would be sited approximately 0.6m from the kerb edge. The appellant indicates that the proposed position of the kiosk would enable approximately 6.5m of unobstructed footway to remain between the kiosk and the adjacent building following its installation.

10. The proposed kiosk would be positioned closer to the edge of the footway than the majority of the existing street furniture. Although it would be of a simple design, owing to its position within the footway it would appear as a prominent and intrusive feature that would interrupt the uniformity of the street furniture. It would fail to assimilate with its surroundings and would also fail to integrate with the character of this part of the street.

11. The proposal 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. In addition, the proposed siting of the kiosk would unacceptably interrupt the uniform visual flow of the street furniture that is an

integral component of the character and quality of the public realm on the footway on this part of Cross Street.

12. Given the proximity of the proposed kiosk to the Conservation Area boundary and the important contribution that the uniformity of the street furniture makes to the character and appearance of the area, the introduction of an incongruous and prominent feature in such close proximity to the Conservation Area would appear as an anomalous feature, at odds with the character of the street that would not preserve the setting of the adjacent Conservation Area.

13. Turning to the effect of the proposal on the adjacent Listed Building, the footway in front of the Royal Exchange is wide and at my site visit I observed that it was occupied by several 'A' Boards. In addition, parts of the ground floor of the building have projecting canopies and there is noticeably less street furniture in front of the building than exists on the opposite side of the street. As such, this side of the street has a different visual character to the eastern side.

14. Given the width of the street and the intervening distance between the Royal Exchange and the appeal site and the distinct difference in character between each side of the street, I do not consider that the proposal would be materially viewed within the setting of the Listed Building. Therefore, I do not consider that the proposal would interrupt any views of the building. Consequently, the setting of the Listed Building would not be harmed by the proposed development.

15. Owing to the small scale of the proposed kiosk, the harm to the Conservation Area would be less than substantial. Paragraph 134 of the Framework requires that where a development proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

16. 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.

17. 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.

18. I therefore conclude that the proposed development would cause harm to the character and appearance of the area and the setting of the St Anns Square Conservation Area 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, and DC18.1 of the Unitary Development Plan for the City of Manchester 1995 (UDP). These policies, amongst other things, require that proposals should consider the impact on the character of the area and the city's heritage and seek to preserve and enhance heritage assets.

19. Given my finding that the proposal would not harm the setting of the Listed Building, there would be no conflict with Saved Policy DC19.1 of the UDP which, amongst other things, relates to a need for development proposals to consider the impact on Listed Buildings.

Pedestrian environment

20. 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.

21. The proposed position of the kiosk would meet the requirements of these guidance documents with an unobstructed footway width of 6.5m remaining between the kiosk and the adjacent building. In being located towards the edge of the footway 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 furniture. As such, pedestrian movement would not be compromised by the siting of the proposed kiosk.

22. Although Cross Street is used by vehicles and trams, 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 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.

23. 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

24. 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.

25. 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.

26. 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.

27. 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

28. 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.

29. 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.

30. 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

31. 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