



Appeal Decision

Site visit made on 5 June 2018

by Richard S Jones BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2018

Appeal Ref: APP/Q1445/W/18/3193450

Pavement outside 186 Western Road, Western Road, Brighton BN1 2BA

- 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 on behalf of Euro Payphone Ltd, against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/01911, dated 22 March 2017, was refused by notice dated 28 July 2017.
 - The development proposed is a call box.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for a call box that was refused prior approval under Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) England Order 2015 (as amended) (the GPDO). The principle of this type of development is already established by the Order and it is only the effects of its siting and appearance which are to be considered in this appeal.
3. The Council's reasons for refusal refer to conflict with a number of development plan policies. Whilst I have taken them into account as material considerations, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply as the principle of development is established through the grant of permission by the Order. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.
4. Concern has been expressed by the Council about the potential for the proposed structure to accommodate advertisements. However, the installation of a call box and the display of an advertisement are two separate matters and considerations relating to the latter are not before me. Consequently I have only considered the effects of the call box in the determination of this appeal.

Main Issues

5. The main issues are the effects of the siting and appearance of the call box on:
 - the character and appearance of the area, including the effect on the setting of Regency Square Conservation Area; and
 - pedestrian users and highway safety.

Reasons

Character and appearance

6. The appeal site forms part of the pavement in the retail centre of Brighton. The proposed call box would have a footprint of 1.32 x 1.11 metres, with an overall height of 2.45 metres. It would be wholly enclosed on two sides and partially enclosed on a third, allowing for wheelchair access. It would be constructed of reinforced laminated glass panels within a powder coated metal framework.
7. I acknowledge that paragraph 60 of the National Planning Policy Framework (the Framework) states that Local Planning Authorities 'should not attempt to impose architectural styles or particular tastes'. However, paragraph 60 also states that it is proper to reinforce local distinctiveness. In this case, the character in and around the appeal site reflects its busy, central location, surrounded by commercial buildings of varying size, age and design.
8. Although the call box would appear as standardised modern structure of bland, utilitarian design, taken in isolation it would not appear particularly out of place within a central urban street scene such as this. However, the call box would be prominent within the street scene being sited in an exposed position well forward of the building line. In its vicinity there is already a significant degree of visual and physical clutter, including road signage, cycle stands, bins, bollards, street trees, public benches as well as existing telephone kiosks. An additional call box in this prominent location would in my view unacceptably add to the existing amount of visual and physical clutter, to the detriment of the street scene.
9. The appellant has referred to the existing telephone kiosks in support of the appeal proposal but in my judgement, whilst noting the differing design and inclusion of advertisements, they serve to illustrate their prominence in the public realm and the harm arising from their contribution to street clutter. As such their existence and historic approvals do not serve to justify the additional harm which would be caused by the appeal proposal, which would be no less conspicuous.
10. I have had regard to the appeal decisions¹ referred to in the appellant's statement, as well as the appended decisions, insofar as some of the general issues they raise may be applicable to this appeal. However, these appeals relate to different sites within different local authority areas for which I have limited information regarding the prevailing character. They therefore carry limited weight in favour of the appeal proposal, which in any case, I have considered on its own individual merits.
11. The site also lies opposite but outside of the boundary to the Regency Square Conservation Area. Given the harm I have found to the character and appearance of the area, it follows that the proposal would amount to an additional structure which would detract from the setting of the northern edge of the Conservation Area, which would be clearly seen and experienced in conjunction with the call box.
12. I therefore conclude that the siting and appearance of the call box would cause harm to the character and appearance of the area and to the setting of the

¹ Appeal References: APP/K5030/A/12/2185860; APP/X5990/A/11/2166164; and APP/U3935/A/13/2204462

Regency Square Conservation Area. This would be contrary to Policies CP12 and CP13 of the Brighton and Hove City Plan Part One and to Policies QD24 and HE6 of the Brighton and Hove Local Plan (LP). These state, amongst other things, that proposals for telecommunications developments will not be permitted where they would have an adverse effect on important areas and their settings, including conservation areas. The policies also seek, amongst other matters, to improve the quality, legibility and accessibility of the city's public urban realm through new development schemes to produce attractive and adaptable streets and public spaces that enrich people's quality of life and provide for the needs of all users by positively contributing to the network of public streets and spaces in the city; conserving or enhancing the setting of the city's built heritage; and reducing the clutter of street furniture and signage.

13. In the context of paragraph 134 of the Framework I would categorise the level of harm to the setting of the Conservation Area as less than substantial. In such circumstances the Framework requires the harm to be weighed against any public benefits associated with the development. In this regard, the Framework indicates that communications infrastructure is essential for sustainable economic growth and also plays a vital role in enhancing the provision of local community facilities and services. Although I recognise that the proposed kiosk would make a positive contribution to these aims through the provision of a wheelchair accessible payphone service powered using a photovoltaic panel, as well as providing consumer choice and competition, these factors do not outweigh the harm that I have identified above.

Pedestrian users/highway safety

14. Although the application marked on a map the location of the call box there was no block plan showing its exact position. However, I do not dispute the appellant had satisfied the requirements of the GPDO for an application of this nature. In any case, precise siting details have now been provided which shows that the call box would be positioned 0.6m from the outer edge of the footway.
15. One of the concerns expressed by the Council is that the site is close to Churchill Square, Brighton's busiest shopping area, and hub for the majority of bus routes through the city and that many bus routes enter Western Road from Regent Hill, from which the visibility of oncoming traffic would be impeded by the addition of a call box. In consideration of this, I appreciate that the call box would be largely glazed. Nevertheless, given the angles involved and the supporting framework as well as its proximity to the Regent Hill junction, I agree that it is likely that sightlines would be partially obscured for emerging drivers looking to the right on exit onto oncoming traffic. This would be harmful to highway safety.
16. It was evident from my site visit that the appeal site is located within an area which experiences a very high level of pedestrian traffic. The minimum widths set out in national and local guidance² would not therefore be appropriate in this location. Nevertheless, the proposal would be in alignment with an existing street tree and existing road signage. Further along the road there are also a number of public benches and cycle stands positioned at right angles to the road towards the outer edge of the pavement. These fixtures therefore already obstruct pedestrian movements and largely channel them along the

² Inclusive Mobility; Manual for Streets; and Public Place Public Space Study

inner section of the footway. Whilst the call box would add to the amount of obstructions along this alignment, it would not obstruct any existing desire line. Moreover, 4.45m of unobstructed footway would remain between the call box and the edge of the shop fronts. I appreciate that the appellant has not provided a pedestrian survey but equally the Council has not provided evidence to demonstrate that 4.45m would be insufficient in this location. Consequently, I do not consider that the proposal would impede pedestrian flow or necessitate that pedestrians use the road as an alternative.

17. Due to its position at the edge of a relatively wide pavement and close to the junction with Regent Hill, I do not envisage that the call box would materially hinder access by the emergency services or the Highway Authority.
18. Nevertheless, for the reasons explained I conclude that the siting of the call box would pose a risk to highway safety. The proposal would therefore conflict with LP Policy TR7 which allows developments that do not increase the danger to users of adjacent pavements, cycle routes and roads.

Other matters

19. I have noted the appellant's concern regarding a blanket approach by the Council but, as highlighted, the Framework states that local planning authorities should not impose a ban on telecommunications development in certain areas, nor seek to prevent competition between different operators or question the need for telecommunications systems. I have therefore considered the appeal proposal accordingly, within the specific parameters of the GPDO.
20. I also note the appellant's comments that the number of telephone kiosks on UK streets has reduced from 90,000 in 2002 to 46,000 in 2016 with BT proposing to remove more. However, this factor does not overcome the above identified harm.
21. I have no evidence to suggest that the call box would be poorly maintained and concerns in this regard have attracted limited weight.
22. I agree that paragraph 43 of the Framework insofar as it relates to radio and telecommunications masts, is not relevant to my consideration of the appeal proposal.
23. I have noted the Council's reference to a Local Government Association article but this does not amount to planning policy or guidance. I have therefore attached little weight to it.

Conclusion

24. For the reasons explained, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR