



## Appeal Decision

Site visit made on 24 October 2017

by **B Bowker Mplan MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16<sup>th</sup> November 2017

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**Appeal Ref: APP/U5360/W/17/3178249**

**Pavement adjacent to 46 Great Eastern Street, London EC2A 3EW**

- 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, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
  - The appeal is made by Mr Tom Fisher on behalf of Euro Payphone Limited against the decision of the Council of the London Borough of Hackney.
  - The application Ref 2017/0902, dated 3 March 2017, was refused by notice dated 27 April 2017.
  - The development proposed is prior approval (telecommunications) for the erection of a telephone kiosk.
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### Decision

1. The appeal is dismissed.

### Background and Preliminary Matters

2. In the interests of clarity and precision, the description of development used above has been taken from the appeal form.
3. 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.
4. 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

5. The main issues are:
  - Whether the siting and appearance of the development would preserve or enhance the character or appearance of the South Shoreditch Conservation Area (SSCA); and,
  - The effect of the siting and appearance of the development on highway and pedestrian safety.

## Reasons

### *Character and appearance*

6. The kiosk would be sited on a pavement to the front of 46 Great Eastern Street. The site is located within the SSCA and to the immediate south east of the site is a Grade II listed building at 40-42 Great Eastern Street, noted for its eclectic Venetian Gothic elevations and its local historic interest. Whilst this section of Great Eastern Street has a commercial and modern city appearance, adjoining pavements have a limited presence of street furniture, thus an overall pleasant open roadside character remains. This is a positive attribute of the area and this part of the SSCA.
7. During my site visit I could not see any other phone kiosks close to the appeal site. However I saw two lampposts, a bin and two roadside cabinets grouped relatively close together along the section of pavement between Nos 46 and 50. This group of street furniture gives this section of pavement a more enclosed appearance, when compared with other pavements along this section of Great Eastern Street. Owing to the comparative openness of surrounding pavements and the direct alignment of the highway, the proposal would be a prominent addition when viewed alongside existing adjacent street furniture. Consequently I share the Council's concern that the kiosk would be located in an area which already has a cluttered visual appearance.
8. Despite the open sided design, the proposed set back from the kerb within the street furniture zone, use of glazed panels and intended simple and functional form, the proposal would be readily apparent when approaching it on foot from the north west, south east and from the opposite side of the road. Whilst in isolation the development could be considered as minor, in conjunction with existing street furniture, the proposal would result in a harmful proliferation and dominance of bulky street furniture and clutter on this section of pavement. Although the site is located in a busy city location, the resultant dominance of bulky street furniture would not be a typical characteristic of this part of the highway and SSCA. The resultant sense of enclosure and dominance of bulky street furniture would be incongruous with the more open character of pavements along this section of Shoreditch High Street, to the significant detriment to this part of the SSCA.
9. In the context of paragraphs 131 - 134 of the National Planning Policy Framework (the Framework), as the harm would be localised in effect, I consider the extent of harm to the significance of the SSCA as a whole to be less than substantial. In such circumstances, the Framework advises to weigh harm against the public benefits associated with the proposal. The proposal would utilise a solar panel and unlike previous kiosks, would be designed to limit the potential for crime and allow for easy wheelchair access. Furthermore, the Framework states that high quality communications infrastructure is essential for sustainable economic growth. In this light, the proposal would bring economic benefits and provide competition and choice for the public.
10. Whilst the harm of the proposal to the SSCA would be less than substantial, the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is clear that such harm should be given considerable importance and weight. In this context, the combined weight afforded to the benefits noted above would not outweigh the weight afforded to the harm identified to the SSCA.

11. In reaching this view, I note that the Council raise no concern regarding the effect of the development on the listed building at Nos 40-42. However, I also have a statutory duty under the Act to have special regard to the desirability of preserving or enhancing the setting of a listed building. Owing to the modest scale of the kiosk and its location away from Nos 40-42, the proposal would preserve the setting of the four storey Grade II listed building. However an absence of harm in this respect would not outweigh the harm identified above in relation to the SSCA.
12. Therefore the siting and appearance of the development would neither preserve nor enhance the character or appearance of the SSCA.

#### *Highway and pedestrian safety*

13. Whilst not a reason for refusal, the Council express concern in its delegated report regarding the effect of the proposal on the free movement of pedestrians on the pavement. During my early afternoon site visit I saw that this section of pavement is busy and that the proposal would be adjacent to a vehicular loading bay.
14. Transport for London (TfL) commented that a visualisation of the kiosk has not been provided and that the kiosk should be sited a minimum of 450mm from the kerb. However, a visual representation of the kiosk has been submitted and indicates that the proposal would be aligned with existing street furniture. In addition, based on the appellant's measurements, the kiosk would be 600mm from the kerb with a resultant available footway space of 2.68m. The resultant footway space would exceed the TfL adopted standards and best practice on footpath accessibility, which require an unobstructed footpath width of no less than 2m. Therefore the footway would remain sufficiently wide so that the siting of the kiosk would not impede pedestrian movement, restrict accessibility of nearby premises or adversely affect pedestrian flows.
15. Therefore, and in the absence of any substantive evidence to the contrary, I conclude that the siting and appearance of the development would not have a harmful effect on highway or pedestrian safety.

#### *Other Matters*

16. In reaching my decision I note that I have identified no harm to highway or pedestrian safety. However an absence of harm in this respect would not outweigh or prevent the harm identified in relation to the first main issue.
17. A number of allowed appeal decisions for similar development have been submitted in support of the proposal. Based on the limited information provided, I am unable to make any meaningful comparisons with the appeal before me. This aside, I note that the proposals are sited at different locations across London where a different character is likely to prevail. Moreover I must determine the appeal before me on its own individual merits.

#### **Conclusion**

18. For the reasons given above, and having taken all matters raised into account, I conclude that the appeal should be dismissed.

*B Bowker*  
INSPECTOR