
Appeal Decision

Site visit made on 3 July 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 17 August 2017

Appeal Ref: APP/P4605/W/17/3174099

New Street, Lower Temple Street, Birmingham B5 4PJ

- 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 Nathan Still, Infocus Public Network Ltd, against the decision of Birmingham City Council.
 - The application Ref 2017/00327/PA, dated 13 January 2017, was refused by notice dated 6 March 2017.
 - The development proposed is the installation of a freestanding payphone kiosk on the pavement.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issue

2. In the interests of clarity, I have taken the description of the development in the heading above from the appeal form.
3. The application and appeal documents make reference to the Town and Country Planning (General Permitted Development) Order 1995. However, by the time of making the application this Order had been superseded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 GPDO). Part 24 has effectively been replaced by Part 16.
4. The proposal is for a payphone kiosk that was refused prior approval under Schedule 2, Part 16 of the 2015 GPDO. The principle of this type of development is already established by the Order and it is only the effects of the siting and appearance which are to be considered in this appeal.
5. The main issue in this case is therefore the effects of the siting and appearance of the proposed kiosk on the character and appearance of the area.

Reasons

6. The appeal site is located on the corner of New Street and Lower Temple Street, in the heart of the pedestrianised commercial centre of Birmingham. The site also falls within the Colmore Row and Environs Conservation Area, the significance of which is expressed in this location through the quality of the buildings and commercial townscape.
7. The Council's Big City Plan, City Centre Masterplan sets out the vision of how the City Centre will be improved and seeks to ensure that the major

improvements are matched by an outstanding pedestrian environment. The City Centre Retail Strategy October 2015 builds on the vision of the Big City Plan and highlights that in New Street a quality clutter free environment will be essential as part of the public realm and environmental improvements.

8. There is already a significant amount of street furniture in this location comprising wayfinding signage and information board, bollards, seating, bins, as well as a series of large street trees running through the centre of the pedestrianised road. The Character Appraisal and Supplementary Planning Policies for the Conservation Area highlights that this clutter of street furniture detracts considerably from the character of the conservation area, being sited without reference to the surrounding buildings or the context of the wider street scene, disrupting the visual cohesion and order of the townscape and obscuring views. I agree.
9. The proposed kiosk would be mainly glazed with a black painted steel frame and canopy. It would be larger than a typical payphone kiosk and would have an open side to allow easier disabled access. Although therefore relatively lightweight in its appearance, it would be prominently sited well forward of the building line in an isolated location in the heart of the public realm. In combination with the other items of street furniture and signage, the kiosk would materially add to the relatively high level visual and physical clutter and undermine the quality of the street scene in this location. Its standard design does not reflect the characteristics of the surrounding townscape and would detract from its visual qualities. Its positioning within this very busy pedestrianised area would also create an additional barrier to pedestrian movements, which would also be undesirable.
10. Due to its siting and proximity, the proposal would also result in material harm to the setting of Nos 49, 50 and 50A New Street, positioned to the west of the site, which is a three storey 19th Century grade II listed building with stucco finish. However, given the separation and related viewing angles, I'm not convinced that there would be material harm to the listed building located to the east of the site at Nos 41, 42, 42A New Street, which is an attractive four storey building, dating from the late 19th Century, primarily finished in pink terracotta with upper storey bays and architectural decoration.
11. I therefore conclude that the siting and appearance of the proposed kiosk would harm the character and appearance of the Colmore Row and Environs Conservation Area and would be harmful to the setting of the listed building at Nos 49, 50 and 50A. This would be contrary to Policies PG3 and TP12 of the Birmingham Development Plan (BDP), the Colmore Row and Environs Character Appraisal and Supplementary Planning Policies and paragraph 132 of the National Planning Policy Framework (the Framework). These state, amongst other things and in addition to that set out above, that great weight will be given to the conservation of the City's heritage assets.
12. In the context of paragraph 134 of the Framework I would categorise the level of harm to both the Conservation Area and the setting of the listed building 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, this does not outweigh the harm that I have identified above.

13. The harm I have found to the street scene would also be contrary to BDP Policies GA1.1, GA1.4 and TP39 as well as undermining the aspirations of the Council's Big City Plan and City Centre Retail Strategy. These seek, amongst other things, to continue to promote the City Centre as the focus for retail, office, residential and leisure activity within the context of the wider aspiration to provide a high quality environment and visitor experience.

Conclusion

14. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR