
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/17/3174107

Navigation Street, Birmingham B5 4AD

- 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 Networks Ltd, against the decision of Birmingham City Council.
 - The application Ref 2017/00325/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 However, by the time of making the application this Order had been superseded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 GPDO). Part 24 has effectively been replaced by Part 16.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 issues are therefore the effects of the siting and appearance of the proposed kiosk on the character and appearance of the area and on highway safety.

Reasons

Character and appearance

6. The appeal site forms part of the pavement outside a multi-storey car park in the commercial centre of Birmingham. 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.

7. The character in and around the appeal site is that of a modern, busy, central location, surrounded by commercial buildings of significant scale. The Mailbox underpass to the west, as well as the Mailbox and Axis building beyond the A38 carriageway, are also prominent features in the street scene. Therefore, taken in isolation, the appearance of the kiosk would not appear particularly out of place within a central urban street scene such as this and would not be read as an incongruous or visually jarring structure.
8. However, the Council's Big City Plan 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. One of the "Big Ideas" is the creation of more attractive, distinctive streets and places within the city centre. Within the Plan, Navigation Street is identified as a primary walking route from New Street Station to the Mailbox with planned improvements.
9. Although relatively lightweight in its appearance, the kiosk would be prominently sited well forward of the building line in an isolated location within the public realm. There is already a significant amount of visual clutter in the area of the appeal site, comprising road signage, car park signage, wayfinding, street lighting and CCTV columns and I was unable to observe any other street furniture which would be complemented by the design of the proposed kiosk.
10. There is also a disused advertisement panel closer to the inside of the footway which the Council say was due to be removed by the end of March this year. If this were to be removed and subsequently replaced by the proposed kiosk, this would be counterproductive to the Council's aspirations of achieving improvements to the public realm in this primary walking route. It would also add to the degree of visual and physical clutter, to the detriment of the street scene and contrary to BDP Policies GA1.1 and GA1.4, as well as undermining the aspirations of the Council's Big City Plan. 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. The proposal would also conflict with BDP Policy TP39 insofar as it seeks to promote the provision of pleasant walking environments.

Highway safety

11. The proposed plans show that the kiosk would be positioned approximately 0.6m back from the edge of the footway to Navigation Street and 12.65m from its junction with Brunel Street, which is one way and exit only onto Navigation Street.
12. The Council say that its vehicle visibility splay requirements have been taken from Manual for Streets 2007, which require a splay of 2.4 metres measured along the centre line of the side road (Brunel Street) to 43 metres along the main road (Navigation Street), where cars are travelling at 30mph, or 33 metres if speeds are 25mph. A plan produced by the Council demonstrates that the positioning of proposed kiosk would fall well within the visibility splays required for either speed. No evidence is produced by the appellant to dispute this position and no speed data has been provided to justify a reduced length of visibility splay.
13. I acknowledge that the kiosk has been designed to be principally glazed, thereby providing a relatively high degree of visual permeability. However, I

have no details of the orientation of the kiosk therefore the more solid aspects could be positioned within diver sight lines. Moreover, visual permeability would also be impeded by any users of the kiosk.

14. Being within a busy commercial city centre context and along a primary walking route between the Mailbox and New Street Station, it is likely that the pedestrian footfall in this area is relatively high, particularly during the peak hours. Whilst the kiosk would create an additional barrier to pedestrian movement along the footway, in my view the proposal would leave sufficient room between it and the edge of the landscaping strip in front of the multi-storey car park so not to significantly impede pedestrian or wheelchair movement in its immediate vicinity. I do not therefore consider that the siting of the kiosk would cause undue harm to the convenience or safety of users of the footway. Accordingly I do not find conflict with BDP Policy TP39, insofar as this policy seeks the provision safe walking environments.
15. Nevertheless, for the reasons I have explained, the siting of the kiosk would be harmful to highway safety. This would be contrary to BDP Policy TP38 and to paragraph 32 of the Framework, which require, amongst other matters, a reduction in the negative impacts of road traffic. The Council's reason for refusal also refers to BDP Policy PG3, however, this relates to place making and has limited relevance to this main issue.

Conclusion

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

Richard S Jones

INSPECTOR