
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: 24 August 2017

Appeal Ref: APP/P4605/W/17/3174105
Waterloo Street, Birmingham B3 3AG

- 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 2017/00326/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 Issues

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 However, by the time of making the application this Order had been superseded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 GPDO). Part 24 has effectively been replaced by Part 16.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 pedestrian movements.

Reasons

Character and appearance

6. The appeal site is located at the north eastern edge of Victoria Square, in the footway, towards the end of Waterloo Street and Colmore Row and forms part of the Colmore Row and Environs Conservation Area. The special characteristics of the Conservation Area are expressed through the quality of the buildings and the public realm in this location.

7. The nearest listed buildings are: the Council House, City Museum and Art Gallery and Council House extension (grade II*), which is a large stone building designed in the classical style; Nos 27, 28, 39 & 30 Waterloo Street (Grade II), which is a three storey building with a rusticated ground floor and tall moulded surrounds to the windows above; and No 130 Colmore Row/No 26 Waterloo Street (grade II), which is a two storey building designed in the Edwardian Baroque style.
8. The buildings form part of a group of large structures focused around Victoria Square and Chamberlain Square. The special interest and heritage significance of these buildings lies not only in the quality of their architecture, but also in the expression given by their design to their civic importance. The size and openness of the public spaces enables the scale and grandeur of the buildings to be appreciated and reinforces the pre-eminence of the buildings within the cityscape. As such the square, its openness and the traditional civic quality of the spaces are important elements of the setting of the buildings and the character and appearance of the Conservation Area.
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, nonetheless have a functional and utilitarian design that would be alien to the context of the Conservation Area and the setting of the aforementioned listed buildings. It would appear at odds with the characteristics of the street scene, disrupt visual cohesion and obscure views.
10. It would also occupy a sensitive location within an area of high quality public realm where there is a clear suite of street furniture, including public seating, bins, railings and street lighting, which is traditional and ornate in appearance. Whilst I acknowledge that the solid aspects of the kiosk would also be finished in a similarly dark recessive colour, its standard design does not reflect the traditional characteristics of the existing street furniture or the surrounding townscape and would detract from their visual qualities.
11. I therefore conclude that the siting and appearance of the proposed kiosk would fail to preserve the character and appearance of the Colmore Row and Environs Conservation Area and fail also to preserve the setting of the Council House, City Museum and Art Gallery and Council House extension listed building and the listed buildings at Nos 27, 28, 39 & 30 Waterloo Street and No 130 Colmore Row/No 26 Waterloo Street. 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, 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 buildings 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 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. The Plan identifies the appeal site as being within Victoria Square, an exciting public place.
14. The kiosk would be prominently sited within the public realm where there is already a significant amount of street furniture, which causes a degree of visual clutter. The level of harm is minimised by their clear cohesiveness. If the Morris column is to be removed as stated, and then subsequently replaced by the proposed kiosk, this would run counter to the Council's aspirations of improving the public realm by not only reinstating the previous degree of clutter but doing so with a structure that is much less sensitive to the historic environment. This would undermine the quality of the street scene in this location and detract from the pedestrian environment, 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.

Pedestrian movements

15. The proposal would be situated at the north eastern end of Victoria Square towards the centre of a relatively wide pavement connecting Colmore Row with Waterloo Street. This part of the pavement already accommodates a number of public benches at right angles and parallel to the road. These are positioned in a central section of the footway along with a number of bins, street trees and a Morris column. These fixtures therefore already obstruct pedestrian and cycle movements in this location by directing them either side of this central section. The replacement of the Morris column in this location with the proposed kiosk would not materially add to this or effectively narrow the walkway route more than that which already occurs.
16. I have noted the Council's concern relating to the appellant's reference to the site being chosen in accordance with criteria set out in Transport for London's adopted standards and best practice on footpath accessibility. Whilst I recognise that there will be many similar issues and principles which apply, the standards relate to a different location and are not adopted by Birmingham City Council. I have therefore given limited weight to this assertion.
17. Nevertheless, I have not found that the proposal would materially increase barriers to pedestrian movement so as to conflict with BDP Policy TP39, insofar as this policy seeks the provision safe walking environments.

Conclusion

18. Whilst I have not found that the proposal would create an unacceptable barrier to pedestrian movements, I have found that the siting and appearance of the

kiosk would be harmful to the character and appearance of the area and the Conservation Area and to the setting of a number of listed buildings. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR