



Appeal Decision

Site visit made on 2 August 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 25th August 2017.

Appeal Ref: APP/V5570/W/17/3175743

56 Upper Street junction Berners Road, Islington, London N1 0NY

- 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) (England) Order 2015 (as amended).
 - The appeal is made by Infocus Public Networks Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref P2017/0491/PRA, dated 6 February 2017, was refused by notice dated 28 March 2017.
 - The development proposed is installation of an electronic communications apparatus.
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Decision

1. The appeal is allowed and approval is granted under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of an electronic communications apparatus at 56 Upper Street junction Berners Road, Islington, London N1 0NY in accordance with the terms of the application Ref P2017/0491/PRA, dated 6 February 2017, and the plans submitted with it.

Procedural Matters

2. I have taken the description of development and the address as given in the application form.
3. The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) enables certain types of development to take place without the need for a specific planning permission, provided certain criteria are met. Provisions exist under Schedule 2, Part 16, Class A for the installation of electronic communications apparatus, subject to certain limitations.
4. In refusing the application, the Council stated that it considered that prior approval of the siting and appearance of the apparatus would be required, and that approval was refused due to its impact on the function of the public highway and safety of highway users, and visual amenity.

Main Issue

5. The main issue is whether or not approval should be given in respect of the siting and appearance of the development, with regard to its effect on highway safety and the character and appearance of the area.

Reasons

6. The application sought approval for the siting and appearance of a solar powered payphone kiosk with wheelchair access. The approximate dimensions would be 1.4 metres by 1.2 metres by 2.6 metres high. The kiosk would be glazed with a canopy and supported by a solid frame, which would be powder coated steel. The structure would be three sided and would be fully accessible to wheelchairs users or other people with limited mobility.
7. The proposed kiosk would be sited towards the rear of the broad pavement, adjacent to a raised forecourt which is not part of the adopted highway. It would be located close to the flank wall of the adjoining public house. There is other street furniture in the vicinity, including signage, cycle stands and litter bins. There is also seating on the pavement associated with the nearby public house and café. The kiosk would be within The Angel Conservation Area.
8. The Council describes the area as a busy town centre location with a high footfall, as it is close to the Angel tube station and the Business Design Centre. The Council advises that, in high footfall areas defined as 'active', a clear footway width of 3.3 metres is needed. Although this would be achieved, the Council considers that further footway width is required as the area experiences cross-flows and the footway is restricted due to existing street furniture.
9. The available width of pavement would be reduced, but there would still be a clear footway in excess of the required 3.3 metres. Whilst the pavement is relatively busy, the kiosk would be sited adjacent to the flank wall of the public house, and its projection in front of the front elevation would not be significant. Consequently, it would be unlikely to impede pedestrian movement. The pavement is sufficiently wide that other users of the footway could manoeuvre in front of the kiosk without having to use the carriageway. Overall, I find that the siting of the kiosk in this location would not adversely affect the function of the public highway and safety of highway users.
10. The kiosk would contribute to clutter as there are already several items of street furniture in the vicinity. However, it would not be prominently located. The kiosk would be viewed in the context of the raised forecourt and railings to the rear, and the wall of the adjoining building. Although it would be within the Conservation Area, it would integrate with its surroundings and would not stand out as a discordant feature. Consequently, the development would not adversely affect the significance of this part of the Conservation Area, which is attributed to the historic development pattern and buildings.
11. I have considered concerns raised by interested parties in relation to anti-social behaviour. The kiosk would create an alcove to its side and rear, but these areas would be visible from the raised forecourt behind. The area is close to litter bins which are equally as likely to be used for disposing of rubbish as the kiosk itself, or the area adjacent to it. I note the concerns about maintenance, but the plans show that adequate distance would remain around the kiosk to allow for routine maintenance.
12. Concerns have been expressed about noise, but there is no evidence that the kiosk would result in levels of noise and disturbance, in excess of ambient noise levels consistent with the location.

13. Third parties have expressed concern that the kiosk would be used primarily for advertising purposes. The construction of the kiosk and the display of advertisements are two distinct and separate developments requiring two applications. The appeal before me relates to the construction of the kiosk and not advertisement consent. Therefore, I give no weight to this consideration.
14. The Council considers the development to be premature as there has been a pre-application submission with respect to the redevelopment of the site. There is no guarantee that any such redevelopment would take place and therefore, I give this consideration little weight.
15. To conclude, I find that the development would not have an adverse effect on highway safety and would preserve the character and appearance of the Conservation Area.

Conditions

16. The development is subject to the standard conditions set out in A.2 and A.3 of the GPDO. These include the implementation within five years and the removal of the structure/apparatus when it is no longer required for electronic telecommunications purposes.

17. Conclusion

18. For the reasons given above, the appeal is allowed.

Debbie Moore

Inspector