

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/17/3175734

Pavement Outside of 309-315 Holloway Road, Islington, London N7 7DS

- 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 P2017/0492/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 dismissed.

Procedural Matters

2. I have taken the description of development 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 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 the safety of highway users.
5. The Council also stated in the officer's delegated report that the impact of the kiosk on the visual amenity of the area is considered unacceptable. Although this did not form part of the reason for refusing prior approval, the Council's concerns are clear from the report, and the appellant has had the opportunity to comment. I have, therefore, considered this matter below.

Main Issue

6. 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

7. 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.
8. The kiosk would be sited on the pavement, in front of a convenience store in an area of predominantly commercial and residential development. It would be set back from the edge of the kerb by 0.51 metres, and would be in line with a lamp column and a street tree. The plans indicate that there would be 1.54 metres between the kiosk and the edge of the public footway, although the forecourt in front of the store provides a further 2.43 metres. At the time of my site visit, there was temporary signage on the forecourt.
9. The kiosk would be close to the adjoining bus lane, which is also used by cyclists, motorcyclists and taxis. Transport for London's 'Streetscape Guidance' (2016), requires a kerb zone to be kept free of obstruction to prevent cyclists or other traffic being forced into the roadway and to prevent damage to passing vehicles. The guidance allows for varying widths according to site-specific circumstances. Transport for London has advised that a gap of 0.6 metres from the kerb is required in this location, which the development would not achieve.
10. The Council states that Holloway Road is the main arterial road north from central London, and is a major bus route. This is consistent with what I saw on site. Given this context, I consider that a kerb zone of 0.6 metres, which is at the upper end of the scale, is not unreasonable. I appreciate that there is a post box occupying the kerb zone, which may already be an obstacle to traffic. However, the kiosk would be larger, and any structure that would cause a bus or other user of the bus lane to veer towards the carriageway should be avoided.
11. The kiosk would not comply with the guidelines in terms of its siting, and there is a significant risk that it would adversely affect the ability of cyclists or other vehicles using the bus lane to pass safely. Therefore, it would be an impediment to the free flow of traffic and detrimental to highway safety.
12. Transport for London advises that the pavement in this location has a medium to high footfall due to the proximity of the tube station, and a football stadium which attracts large crowds. The remaining pavement width would be 1.54 metres, which is relatively narrow and below the 3.3 metre requirement set out in Transport for London's 'Pedestrian Comfort Guidance' (2010).
13. I appreciate that the forecourt provides additional pavement space, but this is not part of the public highway and it cannot be assumed that the forecourt would be free of obstruction. Whilst the pavement may be adequate for periods of medium footfall, it would not be sufficient during busy periods. The kiosk would significantly reduce the available width of pavement, which would hinder the movement of pedestrians and other users of the footway. Moreover, the development may force pedestrians to use the bus lane.

14. To conclude on this matter, I find that the development would have an adverse effect on the function of the public highway and the safety of highway users.
15. The kiosk would be larger than the other street furniture in the vicinity, and it would be prominent in views from the carriageway. It would also contribute to visual clutter, which would be contrary to the aims of the Council's 'Streetbook' Supplementary Planning Document (2012), which seeks to rationalise street furniture. However, it would be seen in the context of its commercial surroundings. Although the forecourt cannot be considered part of the public highway for purposes of pedestrian movement, it does provide visual separation. Therefore, the kiosk would not dominate the pavement, which would not appear overly cluttered with street furniture.
16. I have considered the effect on the nearby street tree, which I understand has been planted recently. The kiosk would be separated from the tree by a lamp column, and it would not be within the crown spread of the tree. Due to the separation distance, the age of the tree, and the intervening structure, it is unlikely that the development would damage the roots or otherwise affect the health of the street tree.
17. Overall, I do not find that the kiosk would have a material adverse effect on the character and appearance of the area. However, this does not overcome my concerns about highway safety, as set out above.

Conclusion

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

Debbie Moore

Inspector