
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: 08 September 2017

Appeal Ref: APP/P4605/W/17/3172479

Outside 4 Corporation Street, City Centre, Birmingham B2 4RN

- 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 2017/00317/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 address and 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 However, by the time of making the application this Order had been superseded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 GPDO). Part 24 has effectively been replaced by Part 16.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 on the outer edge of the footway outside No 4 Corporation Street, in the heart of the retail centre of Birmingham and adjacent to the Metro tram line. 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. This is

reflected in the grade II listed building positioned opposite the site at Nos 1-7 Corporation Street, which is finished in limestone ashlar with a free style composition and a mixture of Hispanic and Elizabethan detailing. The adjacent three storey building at Nos 9 -13 Corporation Street, which is designed in a free style with Venetian style attic storey and finished in limestone ashlar, is also listed grade II.

7. Both listed buildings make a significant contribution to the quality of the townscape in this part of the conservation area. The width of the street at this point and the absence of vehicular traffic enables the quality of the buildings and townscape to be readily appreciated. The quality of the public realm in this area is also an important element in the setting of the buildings and the character and appearance of the Conservation Area.
8. 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 townscape, detract from its visual quality and obscure views.
9. 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 listed buildings at Nos 1 - 7 and 9 - 13. 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 policies state, amongst other things, that great weight will be given to the conservation of the City's heritage assets.
10. 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. The proposal would make a positive contribution to these aims through the provision of a wheelchair accessible payphone service and this is a matter of significant weight in favour of the appeal proposals. However, Paragraph 132 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets, and to their setting. Having regard to my above findings, the public benefits of the proposal would not outweigh the harm which would arise to the identified heritage assets.
11. The Council's Big City Plan sets out the vision of how the City Centre will be improved and seeks to ensure that 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 Corporation Street as a 'primary walking route' where improvements to the public realm are to be targeted. One of the "Big Ideas" is the creation of

more attractive, distinctive streets and places within the city centre. The Big City Plan City Centre Retail Strategy highlights that a quality, clutter free environment will be essential.

12. Whilst the degree of visual clutter in this location is relatively restrained, the kiosk would be prominently sited well forward to the building line in an exposed position within the public realm. The degree of visibility and prominence is highlighted by the disused advertisement panel in this position, 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 appear as a visually obtrusive structure to the detriment of the street scene.
13. I therefore conclude on this main issue that the siting and appearance of the proposed kiosk would cause unacceptable harm to the character and appearance of the area, contrary to BDP Policies GA1.1 and GA1.4, 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. The proposal would also conflict with BDP Policy TP39 insofar as it seeks to promote the provision of pleasant walking environments.

Pedestrian movements

14. The kiosk would be positioned towards the outer edge of the pavement where there is an existing advertisement panel, which I understand is to be removed in due course. In the meantime, whilst I appreciate that this is a busy walking environment, I have no substantive evidence that the advertisement panel has created an undue barrier to pedestrian movements.
15. On the basis that the advertisement panel is removed, the proposal would effectively reinstate the existing extent of physical barriers to pedestrian movements in this area of footway. However, in my view the proposal would leave sufficient room between it and the back edge of the footway such that it would not significantly impede pedestrian or wheelchair movement in its immediate vicinity. Thus it would not cause material harm to the convenience or safety of users of the footway.
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 by the appellant.
17. Nevertheless, I have not found that the proposal would unacceptably increase barriers to pedestrian movements and as such would not 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 Conservation Area and to the setting of the identified listed buildings. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR