



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/17/3172484

Outside Lichfield House, 51 – 79 Smallbrook Queensway, City Centre, Birmingham B5 4HX

- 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 2017/00320/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 However, by the time of making the application this Order had been superseded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 GPDO). Part 24 has effectively been replaced by Part 16.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 forms part of the pavement outside Lichfield House, which is five storey commercial building with mostly retail uses at ground floor level. The context of the appeal site is that of a busy, central location, surrounded by commercial buildings of varying but significant scale.

7. I note that the delegated report explains that Lichfield House will be redeveloped as part of the large scale redevelopment of Smallbrook Queensway. As part of the scheme it is proposed to carry out works to improve the public realm via a Section 106 agreement and this would include the clearance of street furniture and clutter. However, I have not been provided with any specific scheme details or precise timescales for delivery, thereby limiting the weight I am able to give to these assertions. Nevertheless, 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. Within the Plan, Smallbrook Queensway is identified as a primary walking route where improvements to the public realm are targeted. The Big City Plan City Centre Retail Strategy highlights that a quality, clutter free environment will be essential.
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. Taken in isolation, the appearance of the kiosk would not appear particularly out of place within a central urban street scene such as this.
9. However, though relatively lightweight in its appearance, the kiosk would be prominently sited well forward of the building line and would amount to the first significant item of street furniture in approaching views from the north east. Beyond this point there is a great deal of visual and physical clutter in the street scene arising from utility cabinets, bins, street lighting, bus stops, bus shelters, way finding and advertisement panels. I was unable to observe any other street furniture which would be complemented by the design of the proposed kiosk.
10. The site is currently occupied by a disused advertisement panel, which the Council explain was due to be removed earlier 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 materially add to the degree of visual and physical clutter, to the detriment of the street scene.
11. 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

12. On the basis that the advertisement panel is removed, the proposal would reinstate a physical barrier to pedestrian movement along the footway. However, immediately behind the existing advertisement panel are two utility boxes positioned at right angles to the road. A wayfinding panel, bin, bus shelters and another advertisement panel are positioned behind the utility

boxes. These are all positioned towards the outer edge of the footway and therefore already obstruct pedestrian and cycle movements in this location. The proposed kiosk would not materially add to this or effectively constrain the walkway route more than that which already occurs.

13. In any case sufficient room would remain between the kiosk and the front the front building line of Lichfield House 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. Moreover, whilst I appreciate that this is a very busy walking route, I have no substantive evidence that the advertisement panel has created an undue barrier to pedestrian movements.
14. 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.
15. 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.

Other matters

16. Part 5 of the National Planning Policy 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 in this regard 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.

Conclusion

17. 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. For this reason, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR