



Appeal Decision

Site visit made on 9 October 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 7th November 2017

Appeal Ref: APP/N4720/W/17/3179062

O/S First Direct Arena, Clay Pit Lane, Leeds LS2 8AR

- 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 on behalf of Infocus Public Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/01867/DTM, dated 22 March 2017, was refused by notice dated 12 May 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.

Procedural Matter

2. I have taken the description of the development as set out in the appeal form as this is a more accurate description than that on the application form.

Preliminary Matter

3. The proposal is for a payphone kiosk that was refused prior approval under Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) England Order 2015 (as amended). The principle of this type of development is already established by the Order and it is only the effects of siting and appearance which are to be considered in this appeal.

Main Issues

4. The main issue is the effect of the proposal on the character and appearance of the area and highway safety.

Reasons

Character and Appearance

5. The proposed kiosk would have a footprint of approximately 1.1m x 1.3m and a height of approximately 2.6m. It would have a black steel frame and clear polycarbonate toughened glass panels. One of the sides would be fully open and another half open to enable wheelchair access. As a result of its design, with simple framing and clear glass panels, the kiosk would appear lightweight.

6. The area in the vicinity of the appeal site has an open character formed by a large area of hard and soft landscaping that is a pleasant marked contrast with the surrounding developed area. This open area creates a forecourt to the front of the adjacent arena and extends onto the pavement where the proposed kiosk would be sited. A row of bollards appears to demarcate the boundary between the pavement and the forecourt.
7. Whilst there is existing street furniture along this stretch of pavement it is limited to waste bins, bollards and traffic lights at the pedestrian crossing. There is an advertisement display board further to the north east. However, this sits in front of a raised bank and to the side of the entrance to the open area. The proposed kiosk would be directly in front of the entrance.
8. By reason of its size, the kiosk would fail to reflect the existing street furniture, which is more slender and smaller in size. Furthermore, sited in front of the entrance to the forecourt and the entrance to the arena itself the kiosk would appear unduly prominent and would diminish the openness of the area, introducing a discordant feature to the streetscene.
9. I have had regard to the Council's contention that the kiosk would be detrimental to views of the arena. However, the kiosk would be sufficient distance from the building to ensure that it would not detract from its prominence and its role as a landmark feature. In addition, given the limited amount of street furniture in the vicinity of the site, I do not consider that the erection of the kiosk would represent visual clutter.
10. I find therefore that the proposal would significantly harm the character and appearance of the area, contrary to saved Policy GP5 of the Leeds Unitary Development Plan Review (UDP) 2006, which, amongst other matters, seeks to avoid problems of environmental intrusion, loss of amenity, pollution, danger to health or life, and highway congestion, to maximise highway safety. In addition, it would also conflict with Policy P10 of the Leeds Core Strategy (CS) 2014, which seeks to ensure that new development provides good design that is appropriate to its location. Furthermore, it would fail to accord with the design objectives of the National Planning Policy Framework (the Framework).

Highway Safety

11. The kiosk would be approximately 3m from the edge of the kerb with Clay Pit Lane. To the south west of the site is a pedestrian crossing. This stretch of the road is relatively straight with good forward visibility. The pavement on which the kiosk would be sited is wide and is contiguous with the large paved forecourt to the front of the adjacent arena.
12. Even though the design of the kiosk includes for clear glass panels allowing visual permeability, the kiosk would restrict intervisibility between drivers and pedestrians to some extent. During an event held at the arena there would be a high number of people around the site, particularly straight after the event has finished. Therefore, I accept that the risk of conflict between pedestrians and drivers during such times is heightened. However, the kiosk would be approximately 3m from the kerb. I find that the 3m space would give drivers and pedestrians sufficient opportunity to see each other and react accordingly before the pedestrian attempts to cross the road.

13. I therefore find that there would not be any significant harm to highway safety and as such it would comply with saved Policy GP5 of the UDP, which, amongst other matters, seeks to avoid problems of environmental intrusion, loss of amenity, pollution, danger to health or life, and highway congestion, to maximise highway safety. In addition, it would also comply with Policy T2 of the CS, which seeks to ensure that there is adequate provision for access from the highway network, by public transport and for cyclists, pedestrian and people with impaired mobility, which will not create or materially add to problems of safety, environment or efficiency of the highway network. Furthermore, I find no conflict with the design objectives of the Framework.

Other Matters

14. The Council have presented me with their Design Guide: Quality Public Realm in relation to Street Design – Liveable Streets – Streets for All People seeks to minimise street clutter to provide an integrated, easily navigated and simple space. However, the status of this document and its relationship to the development plan is not before me and therefore I can only attribute it limited weight.

Conclusion

15. Whilst I have found that the proposal would not have a significantly harmful effect on highway safety, this is a neutral effect and does not outweigh the harm it would have to the character and appearance of the area.
16. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR