
Appeal Decision

Site visit made on 18 October 2017

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 4th December 2017.

Appeal Ref: APP/A5270/W/17/3180574
45 The Mall, Ealing, W5 3TJ

- 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) Order 2015.
 - The appeal is made by Infocus Public Networks Limited against the decision of the Council of the London Borough of Ealing.
 - The application Ref 172241PNT, dated 3 May 2017, was refused by notice dated 28 June 2017.
 - The development proposed is installation of electronic communications apparatus.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The *Town and Country Planning (General Permitted Development) Order 2015 (as amended)* (GPDO) grants planning permission for certain classes of development, including a range of electronic communications apparatus, which is conditional on a prior approval procedure having been followed. Section A.3.(4) of Class A, Part 16 of Schedule 2 of the GPDO confirms that the matters to be considered in relation to an application for prior approval, such as that subject of this appeal, are limited to siting and appearance.

Main Issue

3. I consider that the main issue in this case is whether or not approval should be given in respect of the siting and appearance of the development, with particular reference to the character and appearance of the locality.

Reasons

4. No. 45 forms part of a row of buildings that front onto the footway along the southwestern side of the Mall and contain a mix of retail and other commercial uses at ground floor level. The row is situated within the Ealing Town Centre Conservation Area.
 5. Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* requires, in exercise of planning functions, that *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area*. The Council's *Ealing Town Centre Conservation Area Character Appraisal* identifies that the public realm of the Conservation Area could be greatly improved and it indicates that an unattractive pedestrian
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environment results from, amongst other things, excessive numbers of phone boxes, of different types. The proposed actions identified by the *Ealing Town Centre Conservation Area Management Plan* include a reduction in street clutter and ensuring street furniture is more coordinated.

6. The public house that adjoins the northwestern side of No. 45 has a low walled seating area to the front, which projects forward slightly beyond the front building line of No. 45. A short distance to the north west of the seating area there is an existing telephone kiosk, a waste bin and a large street tree, all of which area set back from the roadside by similar distances to the frontage of the seating area of the public house. In comparison, the section of footway between those structures and the roadside, including in front of No. 45, has a more open appearance, which contributes positively to the character and appearance of the locality. Although it contains some street furniture, such as a bicycle stand and a street light, they have slender profiles which do not detract from the open appearance of that section of footway.
7. The proposal involves the installation of a telephone kiosk¹, which would comprise an open fronted, 3-sided asymmetric structure, enabling access for people with limited mobility. It would have a floor area of around 1.325 metres by 1.118 metres, an overall height of some 2.6 metres and it would have roof mounted photovoltaic modules, which would generate solar power to illuminate the interior of the kiosk. Whilst the sides and rear of the kiosk would include transparent panels, they would be held in a steel frame and the back wall would incorporate additional framing to support communications equipment. The proposed kiosk would be located on the footway in front of No. 45, close to the roadside.
8. The siting of the proposal, on the more open section of the footway would not be consistent with the existing pattern, with bulky items of street furniture positioned away from the roadside. As a consequence, it would appear incongruous and would give the street frontage a cluttered and untidy appearance. Furthermore, due to its bulk and siting, the proposal would detract significantly from the open appearance of the front section of the footway hereabouts.
9. I conclude that although, given its limited scale, the adverse effect of the proposal on the character, appearance and significance of the Conservation Area would small, due to its siting and appearance, the proposed kiosk would unacceptably harm the character and appearance of the locality. In my judgement, my conclusion on this issue provides a compelling reason why approval of siting and appearance of the development should not be granted in this case.

Other matters

10. The appellant has indicated that the appeal site location has been chosen in accordance with minimum standards set out in Transport for London's adopted standards and best practice for footpath accessibility. However, I am unable to verify that unsupported assertion, as I have not been provided with a copy of the documentation referred to and so I give it little weight.

¹ Only the installation of the kiosk is under consideration and not advertisement consent.

11. In light of my conclusion on the main issue, I consider on balance that the proposal would not comprise the high quality communications infrastructure supported by the *National Planning Policy Framework*, which has been referred to by the appellant. The Council has not cited any Development Plan Policies in support of its decision to refuse approval and the appellant has not drawn my attention to any particular Policies.

Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR