
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/17/3180581
8 Western Avenue, Acton, W3 7UD

- 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 172230PNT, dated 3 May 2017, was refused by notice dated 27 June 2017.
 - The development proposed is installation of electronics 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 safety and convenience of highway users.

Reasons

4. Nos. 8-16 Western Avenue, which form part of a longer terrace, is occupied by a large shop at ground floor level. The frontage of the shop is set back from the northern edge of the carriageway beyond a footway.
5. 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

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

the interior of the kiosk. The proposed kiosk would be located on the footway in front of Nos. 8-16.

6. 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.
7. The proposed kiosk would be positioned around 0.6 metres from the southern edge of the footway and I acknowledge that the width of the paved area between the northern side of the proposed kiosk and the frontage of the terrace would exceed 2 metres. However, the installation would be sited close to the shop entrance at Nos. 8-16, where comings and goings from the shop are likely to conflict with passing pedestrian traffic, thereby necessitating the use of a wider section of the footway than might otherwise be the case to maintain the free flow of pedestrians. The proposed kiosk, which would restrict the footway width thereabouts, would be likely to interrupt the free flow of traffic. Furthermore, as a result, it is likely that some people would be encouraged to try and pass the kiosk along the narrow section of footway between it and the edge of the carriageway, which at that point is a busy main road with a speed limit of 40 mph. The proposal would greatly increase the likelihood of pedestrians straying onto the carriageway or being struck by large vehicles that pass close to the edge of the footway.
8. I conclude that, due to its siting and appearance, the proposed kiosk would unacceptably harm the safety and convenience of highway users. 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

9. I have no reason in this case to dispute the view of the appellant that the proposal would be unlikely to harm the character of the locality. Nonetheless, 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

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

I Jenkins

INSPECTOR