



Appeal Decision

Site visit made on 2 July 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 20 August 2019

Appeal Ref: APP/J0540/W/18/3207520

OS Tesco Metro, 1 Hereward Cross, Peterborough PE1 1TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Nathan Still and Infocus Public Networks Ltd against the decision of Peterborough City Council.
 - The application Ref 18/00784/PRIOR, dated 30 April 2018, was refused by notice dated 25 June 2018.
 - The development proposed is the installation of an electronic communications apparatus.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of the installation of an electronic communications apparatus at land at OS Tesco Metro, 1 Hereward Cross, Peterborough PE1 1TA in accordance with the terms of the application Ref 18/00784/PRIOR, dated 30 April 2018, and the plans submitted with it.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. Following the Council's determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published in July 2018. The parties have had the opportunity to make comments on the revisions to the Framework as part of the appeal process. Whilst the Government made further revisions to the Framework in February 2019, those changes have no particular bearing for the determination of this appeal.
4. The Peterborough Local Plan 2016 to 2036 (2019) (the new Local Plan) has been adopted by the Council since the appeal was lodged. The parties have had an opportunity to comment on the new Local Plan in relation to the case during the appeal process. The policies within the Peterborough Core Strategy Development Plan Document (2011), Peterborough Planning Policies

Development Plan Document (2012) and Peterborough City Centre Development Plan Document (2014) are therefore no longer extant. The appellant has had the opportunity to comment on the policies while in draft form. The changes made to the draft policies as they appear within the new Local Plan have no particular bearing for the determination of this appeal.

Planning Policy

5. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. Nonetheless, I have had regard to the policies of the development plan and any related guidance and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

6. The main issue is the effect of siting of the proposed development on pedestrian movement and public safety.

Reasons

7. The appeal site is an area of footway on the eastern side of The Broadway, outside a convenience store, on a build-out between a taxi rank and a bus stop. The build-out incorporates an uncontrolled pedestrian crossing facility which is in line with the entrance to the convenience store. Amongst other street furniture in the immediate vicinity of the appeal site there are lamp posts and bollards.
8. The proposed telephone kiosk would mainly be located within a footway build out, to the carriageway side of the main body of the footway but would project into the through alignment of the footway. This projection would be in line with existing lighting columns and would lie outside the main pedestrian desire lines when passing along the road or crossing to enter the convenience store or alley to the side to access the market.
9. Whilst the available footway width is reduced by both the bus stop area and the taxi rank, which would be anticipated to attract queues of people at certain times, the additional item of street furniture would be located in a position that would be unlikely to result in further significant obstruction or exacerbate the impact on flows of those obstructions already present.
10. Several public houses, entertainment venues and restaurants front onto the street in the vicinity of the appeal site and the Highway Authority, police and the Closed Circuit Television (CCTV) Manager at the City Council have raised concerns that the proposed telephone kiosk would obstruct or block surveillance by CCTV, encouraging and acting as a focal point for antisocial behaviour, and affect the control of football crowds. Little substantive evidence has been provided to demonstrate how the proposed kiosk would affect surveillance by the CCTV camera network.
11. During my site visit I observed two CCTV installations, one to the north of the site at the junction of Fitzwilliam Street with The Broadway, and one to the south at the junction of The Broadway and Long Causeway with Westgate and Midgate. These cameras would provide a view of the site and its vicinity from two opposite directions and so the area around the proposed telephone kiosk

would be visible from one or other of the cameras, albeit that the view from the camera to the south would be restricted by existing street furniture and trees. The structure, of itself, would not be likely, by virtue of its size and construction, to create a significant additional obstruction to the area under surveillance by the camera; whether specifically football crowds or more generally. I therefore conclude that the siting of the proposed kiosk would not result in harm to public safety as a result of the obstruction of views from CCTV surveillance cameras.

12. The site is located between a taxi rank and a bus stop and the build-out separating these and forming the pedestrian crossing projects into the carriageway, bringing the conflict point between pedestrians and vehicles forward of the likely position of vehicles waiting in the taxi rank and the bus layby. The proposed kiosk, set back from the edge of the running carriageway, would have limited impact upon driver/pedestrian visibility for approaching vehicles on the through carriageway or pedestrians approaching the crossing.
13. Although I note the efforts to reduce street clutter in the town centre, in this instance the proposed development would be in the zone of the footway which is already occupied by a number of items of street furniture and would not inhibit pedestrian movement to a degree that would be of detriment to convenience or safety.
14. The Highway Authority has identified that the vicinity of the site attracts street beggars. Whilst beggars or rough sleepers could occupy part of the width of the footway there is little evidence before me to suggest that the presence of the proposed telephone cabinet would increase any temporary obstruction that they may cause.
15. I conclude that the proposed development would not have a harmful effect on pedestrian movement or public safety. The Council has referred to Policies LP6 and LP13 of the new Local Plan. These policies, amongst other things, seek to ensure that appropriate provision is made for safe, convenient access, prioritise access for pedestrians, improve the public realm with a particular focus on the pedestrian environment and promote travel security through improvements to CCTV. Paragraph 91 of the Framework requires that planning decisions should aim to achieve places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Whilst this prior approval appeal has not been determined on the basis of Section 38(6) of the Planning and Compulsory Purchase Act 2004, these policies are relevant to the planning judgement to be made on this main issue and I have found the proposed development to be in accordance with these policies.

Other Matters

16. Whilst the appeal site itself is outside the City Centre Conservation Area (the CA) the opposite side of the street lies within the CA. There is also a Grade II listed building (8-14 Broadway) and a locally listed building (16-22 Broadway) in close proximity to the site. The significance of the CA derives from the grouping of its relatively large number of distinctive designated and non-designated heritage assets, and the historic development of the City. The character and appearance of the CA in this street is of a mix of buildings of various scales and design, with both modern and more traditional buildings.

Within the more traditional buildings commercial uses occupy the ground floor, exhibiting modern shop facades below more traditional architecture.

17. Paragraph 193 of the National Planning Policy Framework requires, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
18. The proposed telephone kiosk would be visible in some views against the background of the buildings within the CA, including the Grade II listed building and the locally listed building. However, given the more modern nature of the street scene at ground floor level the simple modern design of the proposed kiosk, would not, in this instance, be out of keeping with this backdrop. Therefore, I do not find that the proposal would adversely affect the settings of the CA, the Grade II listed building or the locally listed building.
19. My attention has been drawn to other appeal decisions in regard to telephone kiosks in various cities. However I have little information before me to draw a comparison between these cases and the proposal before me. In any case, I have determined this appeal on its individual merits.
20. I note comments with regard to the number of other telephone kiosks in the vicinity of the appeal site, and within the town centre more generally. However, Paragraph 116 of the Framework makes it clear that decisions on applications for telecommunications equipment should be made on planning grounds and that decision-takers should not seek to "prevent competition between different operators... [or]... question the need for the telecommunications system". Whilst mindful of this national policy, I am also persuaded that the proposed development would provide a type of structure that could be conveniently accessed by wheelchair users and thus would meet a clear need for its users.

Conditions

21. I am mindful that the Council has recommended a condition requiring that the kiosk be maintained in the agreed colour, and the glazed areas left free of any obstruction. However, the GPDO does not provide specific authority for me to attach conditions, and thus I am unable to do so in this case.
22. Any planning permission granted for the installation of an electronic communications apparatus under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

23. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

I Dyer

INSPECTOR