



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/18/3207523

Cumbergate Adj Westgate Entrance, Peterborough PE1 1YR

- 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) (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 18/00785/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 dismissed.

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 Issues

6. The main issues are: -
 - The effect of the appearance of the proposed development on its surroundings, including heritage assets, and: -
 - The effect of the siting of the proposed development on public safety.

Reasons

Appearance (including heritage assets)

7. The appeal site lies within the City Centre Conservation Area (the CA). The significance of the CA derives from the grouping of 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: at its northern end the street enters the modern Queensgate Shopping Centre, whilst on either side the listed buildings are of a more traditional design with some modern extensions.
8. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, requires that in making planning decisions within a conservation area, special attention is paid to the desirability of preserving or enhancing the character or appearance of the area. In addition, Paragraph 193 of the 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.
9. The appeal site is located in Cumbergate which is a pedestrianised street in the city centre flanked on both sides by Grade II listed buildings of varying age and types, whilst at its southern end the view is closed by the Grade I listed St John the Baptist Church. The street is fronted by shops and a restaurant. Amongst other street furniture in the immediate vicinity of the appeal site there are advertising monoliths, lamp posts, litter bins, a pillar mounting a Closed Circuit Television (CCTV) camera and a telecommunication cabinet. Outdoor seating for the restaurant occupies part of the street. There are also two street trees. Overall the area is characterised by its busy and vibrant commercial environment, with passing pedestrians and people using the restaurant seating to eat. The street furniture in the area forms a coordinated design that gives the street scene a sense of openness.
10. The appeal scheme proposes a telephone kiosk of contemporary design and solid form which would be of a scale and mass which would be much greater and incongruous with the adjacent street furniture. The proposed telephone kiosk would be visible in most views against the background of the listed buildings within the CA, when passing along the street, exiting Queensgate or

seated outside the restaurant. The proposed telephone kiosk would dominate the street furniture in this location which would neither preserve nor enhance the character or appearance of the area. I therefore conclude that the siting and appearance of the proposed kiosk would be harmful to the character or appearance of the CA. It would also adversely affect the settings of the Grade II listed buildings and the Grade I listed church. Further, the form of the proposed kiosk would be out of keeping with the existing street furniture and would introduce an additional structure that would erode the current sense of openness and would not conform or relate to the geometric layout of the coordinated scheme that is in place. This lack of conformity would, in this case, amount to harm.

11. The level of harm to the significance of the CA would be less than substantial. Paragraph 196 of the revised Framework requires this level of harm to be weighed against the public benefits of the proposal. The Framework supports the expansion of electronic communication networks which are essential to economic growth and social well-being. In addition, the inclusive design (including wheelchair accessibility) and environmental credentials of the kiosk also weighs moderately in favour of the proposal. However, the Framework states that great weight should be given to the CA's conservation and consequently, the public benefits in each case do not outweigh the harm that I have identified.
12. The Council has referred to Policies LP6, LP16 and LP19 of the new Local Plan. These policies, amongst other things, seek to promote a high quality public realm, with particular focus on the pedestrian environment in the City Centre, and protect heritage assets. The Council also refers to Paragraph 131 of the National Planning Policy Framework 2012. This has been replaced in the current Framework by Paragraph 192 which, amongst other things, requires that account be taken of the desirability of new development making a positive contribution to local character and distinctiveness. 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 that the proposal would be contrary to these policies.

Siting

13. The police and the CCTV Manager at the City Council have raised concerns that the proposed telephone kiosk would obstruct or block surveillance by CCTV, encouraging 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.
14. During my site visit I observed CCTV installations on the junction of Cumbergate with Exchange Street and Cathedral Square and at the entrance to the Queensgate shopping centre which would provide views of the site and its vicinity. The structure itself would be unlikely, by virtue of its size and construction, to create a significant obstruction to the area under surveillance by the cameras; 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 proposed kiosk obstructing CCTV surveillance cameras.

15. I therefore find that the siting of the proposed kiosk would not have a harmful effect on public safety. 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, this policy is relevant to the planning judgement to be made on this main issue and I have found that the proposed development complies with this policy.

Other Matters

16. Paragraph 116 of the revised Framework makes it clear that applications for telecommunications equipment should be determined on planning grounds only and that the need for an electronic communications system should not be questioned. I have determined the appeal on that basis.

Conclusion

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

I Dyer

INSPECTOR