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## Appeal Decisions

Site visit made on 2 July 2019

**by I A Dyer BSc (Eng) MIHT**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 August 2019**

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### **Appeal A Ref: APP/J0540/W/18/3207498**

#### **OS Betfred, 59 Bridge Street, Peterborough PE1 1HA**

- 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 18/00774/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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### **Appeal B Ref: APP/J0540/W/18/3207499**

#### **48 Bridge Street, Peterborough PE1 1DT**

- 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 18/00775/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. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Procedural Matters**

3. As set out above there are two appeals which differ only in their location within the street. I have considered each proposal on its individual merits, except where otherwise indicated.
4. 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 developments solely on the basis of their siting and appearance, taking into account any representations received. My determination of these appeals has been made on the same basis.

5. Following the Council's determination of the applications, 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 these appeals.
6. 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**

7. 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 Framework only in so far as they are a material consideration relevant to matters of siting and appearance.

### **Main Issues**

8. The main issues are: -
  - The effect of the appearance of the proposed development on its surroundings, including heritage assets (Appeal A and Appeal B), and:-
  - The effect of the siting of the proposed development on pedestrian movement (Appeal A only) and public safety (Appeal A and Appeal B).

### **Reasons**

#### *Appearance (including heritage assets)*

9. The appeal sites both lie within the City Centre Conservation Area (the CA). In both cases the proposed kiosk would be close to the Town Hall which is a locally listed building. 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, with both modern and more traditional buildings. The eastern side of the street is dominated by the Town Hall. Within the more traditional buildings commercial uses occupy the ground floor, exhibiting modern shop facades below more traditional architecture.
10. 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.

11. The appeal sites are located in Bridge Street which is a pedestrianised shopping street in the city centre. Amongst other street furniture in the immediate vicinity of the appeal site there are several bench seats, lamp posts, litter bins and public art. There are also several street trees. Overall the area is characterised by its busy and vibrant commercial environment with passing pedestrians and people using the seating provided to rest and eat. The street furniture in the area is generally low in height and forms a coordinated design that gives the street scene a sense of openness beneath the canopies of the street trees. In the case of Appeal B the current landscaping scheme has been designed to provide an open area for temporary uses, such as rides and attractions.
12. The appeal schemes each propose a telephone kiosk of contemporary design and solid form which would be of a scale and mass which would be much greater than the adjacent street furniture. Each of the proposed telephone kiosks would be visible in some views against the background of the buildings within the CA, including the Town Hall, when passing along the street or seated at some of the benches. Each kiosk would dominate the street furniture in its location which would neither preserve nor enhance the character or appearance of the area.
13. I therefore conclude that the siting and appearance of each of the proposed kiosks would be harmful to the character and appearance of its surroundings, with particular regard to the surrounding CA, and the setting of the locally listed Town Hall. Further, the form of the proposed kiosks would be out of keeping with the existing street furniture and each 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. In the case of Appeal B the proposal would encroach into the area set aside for public entertainment, undermining the value of the existing landscape scheme.
14. 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, for each of the kiosks, 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.
15. In both cases 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 these prior

approval appeals have 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 both of the proposals would be contrary to these policies.

### *Siting*

16. In the case of Appeal A, the proposed telephone kiosk would lie on the desire line for pedestrians moving between the eastern side of Bridge Street and the pedestrian crossing of Bourges Boulevard. However, this area is open and wide and, whilst avoiding the kiosk would entail a detour, the additional distance is relatively small. I find that the siting of the proposed kiosk would not form an unreasonable obstruction and inconvenience to pedestrians in the proposed location.
17. In the cases of both Appeal A and Appeal B the police and the Closed Circuit Television (CCTV) Manager at the City Council have raised concerns that the proposed telephone kiosks 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 either of the proposed kiosks would affect surveillance by the CCTV camera network.
18. During my site visit I observed a CCTV installation at the pedestrian crossing of Bourges Boulevard which would provide a view of each of the sites and their vicinity, albeit restricted by other existing street furniture. Neither structure, of itself, would 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, in both cases, 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
19. In the case of Appeal A, I have found that the siting of the proposed kiosk 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 that the proposed development complies with these policies.
20. In the case of Appeal B I 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**

21. 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 appeals on that basis.

### **Conclusion**

22. For the reasons given above I conclude that both appeals should be dismissed.

*I Dyer*

INSPECTOR