



Appeal Decision

Site visit made on 8 August 2019

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2019

Appeal Ref: APP/U5930/W/18/3202517

2 St James Street, Walthamstow, London, E17 7PF

- 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 (Infocus Public Networks Ltd) against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 180190 dated 17 January 2018, was refused by notice dated 20 March 2018.
 - The development proposed is the installation of a freestanding payphone kiosk on the pavement.
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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) (the 'GPDO'), 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. I have also dealt with another appeal by the same appellant nearby on South Grove (Ref: APP/U5930/W/18/3202512). That appeal is the subject of a separate decision.
4. Since the appeal was submitted, two revised versions of the Framework have been published¹². However, insofar as the Framework is relevant to my determination of the appeals, it is not so changed that the case of either party would be prejudiced by my taking it into account as a material consideration.
5. The Framework supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of Schedule 2, Part 16 of the GPDO, and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network

¹ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, July 2018.

² National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

is permitted development. Therefore, matters such as the need for the development are not at issue in this appeal.

Planning Policy

6. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A contained within this do not require regard be had to the development plan. I have had regard to the policies of the development plan, the Framework, and related guidance in the Walthamstow St James Conservation Area Management Plan³, but only in so far as they are a material consideration relevant to matters of siting and appearance.
7. Despite the Council's reference to its supplementary planning document on Urban Design (2010) in the reasons for refusal, a copy was not supplied with the evidence. I have not therefore had regard to this document.

Main issues

8. The main issues are the effect of the siting and appearance of the proposed telephone kiosk upon:
 - the character and appearance of the area, with particular regard to the St James Street Conservation Area;
 - the pedestrian environment.

Reasons

Appeal site context

9. The appeal site lies on the edge of the town centre adjacent to the gable end of a handsome 3-storey terraced building that fronts onto the High Street with ground floor retail. At the time of my inspection, the gable end, which fronts onto the busy St James Street (A1006), had been painted and finished in an attractive artwork mural. A row of stainless steel bike stands were positioned directly to the north of the appeal site, together with a modest-sized public car-park.

Character and appearance

10. The appeal site is located within the St James Street Conservation Area and the statutory requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. I have also considered the impact of the development on the conservation area in accordance with Chapter 16 of the Framework.
11. The proposed telephone kiosk is of a lightweight and modern design, with extensive glazing. Although it is of modest proportions, there is limited street clutter in the vicinity of the appeal site and it's functional, utilitarian design would as a consequence stand-out and appear intrusive. This harm would be intensified by its highly prominent and publicly visible location, and it partly obscuring the attractive artwork mural which makes a significant contribution to local character.

³ Walthamstow St James, Conservation Area Management Plan, Adopted December 2014, London Borough of Waltham Forest.

12. The appellant states that there are examples of modern materials being used in area and that such street furniture would not be unusual in a town centre setting. I also recognise that the kiosk would not impact on active frontages to the High Street or obscure any historic architectural features. However, this does not justify the harm identified.
13. For the reasons set out above I conclude that, due to its siting and appearance, the proposed telephone kiosk would have a harmful effect upon the character and appearance of the area, and in particular, the conservation area. As a consequence, insofar as they are a material consideration, the development would be contrary to Policies CS12 and CS15 of the Core Strategy⁴, Policies DM28 and DM29 of the Development Management Policies Local Plan⁵, and Policies 7.4, 7.6 and 7.8 of the London Plan⁶, which collectively seek, amongst other things, to; (a) conserve and enhance heritage assets; (b) respond positively to local context and character; (c) give strong recognition to local distinctiveness and promote a sense of place; and (d) allow existing buildings that make a positive contribution to the character of a place to influence the future character of an area.
14. As a consequence, the development would also fail to preserve or enhance the character or appearance of the conservation area in accordance with S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
15. I also find that the scheme conflicts with Paragraphs 127, 193 and 194 of the Framework which seeks, amongst other things; (a) great weight to be given to the conservation of designated heritage assets; (b) clear and convincing justification for any harm to the significance of a designated heritage asset; (c) development that adds to the overall quality of an area; (d) development that is sympathetic to local character, including the surrounding built environment; and (e) development that maintains a strong sense of place using the established pattern of buildings, streets and spaces.

Pedestrian environment

16. The footway adjacent to the appeal site is of a generous width where the telephone kiosk would be sited and would be in excess of 2 metres wide. However, the appeal site is directly adjacent to a busy thoroughfare between a pedestrian crossing, the High Street, a public car-park and a bicycle storage area. At my site visit I observed that the full width of the footway was needed to accommodate pedestrian traffic, particularly those in wheelchairs and with bicycles, and that to reduce its width, even marginally, would obstruct this flow, particularly at the footway pinch-point adjacent to the south-west corner of the building.
17. For the reasons set out above I conclude that, due to its siting, the proposed telephone kiosk would have a harmful effect upon the pedestrian environment of the area. As a consequence, insofar as they are a material consideration, the development would be contrary to Policy CS15 of the Core Strategy, Policies DM29 and DM30 of the Development Management Policies Local Plan, and Policies 7.4 and 7.5 of the London Plan, which collectively seek, amongst other things, to; (a) improve the way places function; (b) provide appropriate

⁴ Core Strategy, Adopted March 2012, Waltham Forest Local Plan.

⁵ Development Management Policies Local Plan, Adopted October 2013, London Borough of Waltham Forest.

⁶ The London Plan, The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2016.

physical and safe connections with surrounding streets; (c) ensure that inclusive design principles are applied to enable disabled people to use buildings and spaces; (d) ensure that development has regard to the pattern of streets in terms of orientation and scale; and (e) contributes to the easy movement of people through the public realm.

18. I also find that the scheme conflicts with Paragraph 127 of the Framework which seeks, amongst other things, development that will create places that are safe, inclusive and accessible, with a high standard of amenity for existing users.

Other matters

19. Despite the Council having referred to Policy CS14 of the Core Strategy in its reasons for refusal, I am satisfied that the scheme does not conflict with the objectives of this policy which seeks to promote successful and vibrant town centres. There is also no evidence before me to suggest that the scheme conflicts with Policies DM32 and DM37 of the Development Management Policies Local Plan which relate to impact on occupiers and neighbours, and telecommunication coverage.

Conclusion

20. Given the glazed finish of the telephone kiosk and its modest size, I am satisfied that the scheme would cause less-than substantial harm to the significance of the conservation area as a designated heritage asset. As a consequence, I have weighed this harm against the public benefits of the proposal, including securing optimum viable use, in accordance with Paragraph 196 of the Framework.
21. In carrying out this balancing exercise, I have given considerable importance and weight to the desirability of preserving or enhancing the character or appearance of the conservation area in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
22. I recognise that the scheme would provide a communication service benefit to the public in that it would increase the number of telephone kiosks available and that it would be accessible by those with disabilities. However, given the way people communicate, I do not consider the benefits to the local population would be significant. Accordingly, it is my view that this benefit would be of limited value and significantly outweighed by the harm to the character and appearance of the area, with particular regard to the conservation area and its significance as a designated heritage asset.
23. For the reasons given above, I conclude that the appeal should be dismissed.

Robert Fallon

INSPECTOR