



Appeal Decision

Site visit made on 2 July 2019

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2019

Appeal Ref: APP/J4423/W/18/3193159

Public Highway, Corporation Street, Junction Cotton Mill Row, Sheffield S3 8RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Sheffield City Council.
 - The application Ref 17/02902/TEL, dated 10 July 2017, was refused by notice dated 30 August 2017.
 - The development proposed is a call box.
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Decision

1. This appeal is dismissed.

Procedural Matters

2. Following the Council's decision on the application that led to this appeal, a new version of the National Planning Policy Framework (the 2018 Framework) has been published. The main parties had the opportunity to make comments on the bearing of this on the appeal. Whilst there have been further revisions to the Framework contained in the new version published in February 2019 (the revised Framework), no changes have been made to the content directly relevant to the subject matter of this appeal. Consequently, I consider that no prejudice would occur to any parties as a result of me taking the revised Framework into account in my assessment of the appeal's merits.
3. I have been appointed to decide other appeals made by the appellant for similar development on nearby sites. For the avoidance of doubt, I have determined these appeals on their individual merits. Nonetheless, as there are similarities between the cases, much of the language used in my decisions is common to the decision letters.
4. It is put to me that these proposals are 'not in any way whatsoever for advertising and there is no incorporation of advertising in [these] proposals' and that the size of the kiosk is to allow wheelchair access and cover from the elements. Based on the evidence before me, including the submitted drawings, I find that the whole development as proposed would be for the purpose of the operator's electronic communications network. There is no dispute between the main parties that the proposal meets the requirements of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) in other respects, subject to the prior approval of siting and appearance.

5. During the consideration of this appeal the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 (the 2019 regulations) came into force. With respect to Class A of Part 16 of Schedule 2, the 2019 regulations state that in the case of appeals that relate to the refusal of a prior approval application submitted before 25th May 2019, if prior approval is given, the planning permission granted under this class continues to have effect as if these amendments had not been made. This appeal is considered on this basis.
6. It has also been brought to my attention that Paragraph 17 of Part 3 of the 2019 regulations amends the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 by removing deemed consent to display an advertisement on the glazed surface of a telephone kiosk. I have taken this into account in my considerations as far as it is relevant.
7. I have been referred to Transport for London's Pedestrian Comfort Guidance and Streetscape Guidance 2017, however they do not apply to the relevant local authority area and as such I give this guidance limited weight in my decision.

Main Issues

8. In light of the above, the main issues are the effect of the proposed development on the character and appearance of the area in terms of its siting and appearance with particular reference to the setting of the Kelham Island Industrial Conservation Area.

Reasons

9. The appeal site is located close to the boundary of the Kelham Island Industrial Conservation Area (the conservation area). Based on the evidence before me and my observations, **its significance lies in its historic industrial character and the buildings and spaces that reflect this**. The appeal site is on part of the pavement which separates the conservation area from the A61 and it provides the immediate visual context of important public views from the main road towards the conservation area. Its open nature reveals the boundary of the building labelled as the Globe Steel works and the building at the end of Cotton Mill Row which are both within the conservation area and which, due to their use and industrial design, contribute to the significance of the area.
10. The public pavement in this area is relatively open with street furniture generally limited to slender lamp/sign posts. An advertisement panel is visible from the site, however this is separated by the busy main road and as such it does not have a significant bearing on the character of the appeal site. In summary I find that the uncluttered character of the immediate surroundings is a positive element of the appearance of the appeal site and surrounding area.
11. The siting of the kiosk in this location particularly of the appearance (in terms of its size and scale) of the proposed call box, would introduce a relatively large piece of street furniture to this currently open area. I appreciate that the appellant is seeking uniformity of design across the network, however there are no similar kiosks which presently contribute to the character or appearance of this site. Whilst I do not find the detailed design of the call box to be harmful, nevertheless for the reasons described above, it would harmfully erode the positive open and uncluttered characteristics of the appeal site.

12. As described above, the proposed kiosk would be inappropriate in the streetscene in terms of its siting and appearance. Therefore, it follows that the call box's appearance in public views towards the conservation area would be harmful to its setting. Furthermore, the proposed call box would partially obscure the important public views towards the industrial buildings of Globe Steel works and the building at the end of Cotton Mill Row and therefore would also have a harmful effect on the setting of the conservation area for this reason. Consequently the proposed development would not preserve or enhance the character or appearance of the conservation area. I attribute considerable importance and weight to this harm. Due to the call box's size the effect would be somewhat limited. However, it would nonetheless be harmful, albeit that the harm to the heritage asset would be less than substantial.
13. Although the proposed kiosk would reduce the width of the footway I am not presented with substantive evidence that it would be harmful in this regard.
14. Consequently, for the reasons above, I conclude that the proposed development would be harmful to the character and appearance of the area in terms of its siting and appearance with particular reference to the setting of the Kelham Island Industrial Conservation Area. I have taken into account the evidence provided in relation to the provisions of the development plan so far as they are material. For the reasons above the development would be contrary to the policies I find to be most relevant to this appeal: Policies BE10 (Design of Streets, Pedestrian Routes, Cycleways and Public Spaces), BE16 (Development in conservation areas) and IB9 (Conditions on development in industry and business areas) of Sheffield a city for people Sheffield Unitary Development Plan Adopted March 1998, and Policies CS74 (Design Principles) and CS75 (Improvements to Gateway Routes into and through the City) of the Sheffield Development Framework Core Strategy Adopted March 2009, and to the relevant advice in the Framework.
15. The Framework requires harm to be weighed against the public benefits of the proposal. I note that this scheme would provide services to members of the public including free emergency calls and calls to Childline, and I understand that it would include telecommunications infrastructure which would provide better mobile reception and data coverage. It would also be powered by solar power. I have balanced these public benefits against the less than substantial harm identified above. However, considering the scale benefits against the publicly visible, long term harm to the character and appearance of the area they do not outweigh the harm to the setting of the conservation area identified above. Accordingly the proposal would also fail to comply with national guidance in the Framework.

Other Matters

16. I acknowledge the support for high quality communications in the Framework. It also requires that such applications are determined on planning grounds only. It can be seen above that, on this basis, I do not find the proposed development to be high quality in terms of its siting and appearance.
17. I have been provided with appeal decisions relating to other kiosks¹, however these are located in a different city to the appeal site and therefore I afford limited weight to their specific circumstances. Nevertheless, I note that the

¹ APP/X5210/A/12/2178982, APP/X5990/A/12/2187244

Inspectors made a site specific judgement with respect to character and appearance for each case, and I have done the same in this case.

18. I also note that this application was not refused on the grounds of antisocial behaviour, maintenance or repair and these matters are not in dispute between the main parties.

Conclusion

19. For the reasons above, this appeal should be dismissed.

H Miles

INSPECTOR