
Appeal Decisions

Site visit made on 26 November 2019

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2019

All Appeals

- The appeals are 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 appeals are made by Mr Nathan Still (Infocus Public Networks Limited) against the decision of Kirklees Council.
 - Each development proposed is for the installation of a communication hub on the highway by an electronic communications code operator.
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Appeal A Ref: APP/Z4718/W/19/3235275

Outside 11-13 Ramsden Street, Huddersfield HD1 2SX

- The application Ref 2019/91612, dated 15 May 2019, was refused by notice dated 8 July 2019.
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Appeal B Ref: APP/Z4718/W/19/3235277

Outside 4 Market Place, Huddersfield HD1 2AN

- The application Ref 2019/91614, dated 15 May 2019, was refused by notice dated 8 July 2019.
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Appeal C Ref: APP/Z4718/W/19/3235280

Outside 52 John William Street, Huddersfield HD1 1ER

- The application Ref 2019/91615, dated 15 May 2019, was refused by notice dated 8 July 2019.
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Appeal D Ref: APP/Z4718/W/19/3235284

St George's Square, Huddersfield HD1 1JB

- The application Ref 2019/91620, dated 15 May 2019, was refused by notice dated 8 July 2019.
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Appeal E Ref: APP/Z4718/W/19/3235286

Outside 19-23 Market Street, Huddersfield HD1 2EH

- The application Ref 2019/91616, dated 15 May 2019, was refused by notice dated 8 July 2019.
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Appeal F Ref: APP/Z4718/W/19/3235287

Outside 25-27 New Street, Huddersfield HD1 2AZ

- The application Ref 2019/91618, dated 15 May 2019, was refused by notice dated 8 July 2019.
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Decisions

1. Appeals A, B, C, D and E are dismissed.

2. Appeal F 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 a communication hub on the highway by an electronic communications code operator at land outside 25-27 New Street, Huddersfield HD1 2AZ in accordance with the terms of the application Ref 2019/91618, dated 15 May 2019, and the plans submitted with it.

Procedural Matters

3. As set out above, there are 6 separate appeals, each for the installation of a communication hub on the highway by an electronic communications code operator pursuant to Class 16 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO). Whilst each appeal relates to a different site, the proposed communication hubs are identical and they are all within walking distance of each other in Huddersfield town centre. I have considered each proposal on its individual merits, but as they raise similar issues, the cases are dealt with in a single decision letter.
4. On 25 May 2019, the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 came into force, amending the GPDO. The amendment removes the permitted development right to install a public call box under Schedule 2, Part 16, Class A of the GPDO. However, transitional and saving provisions at Part 5 of the 2019 Regulations provide that where an appeal has been lodged within 6 months of the date of notice of refusal of a prior approval application submitted before 25 May 2019, the planning permission granted by Schedule 2, Part 16, Class A continues to have effect in relation to a public call box as if the amendments made to the GPDO by the 2019 Regulations had not been made. That is the case in respect of the 6 appeals before me.
5. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) requires the local planning authority to assess the proposed developments solely based on their siting and appearance, considering any representations received. My determination of these appeals has been made on the same basis.
6. The provisions of the GPDO require the proposed development to be assessed solely on the basis of its siting and appearance. Therefore, whilst the appellant has referred to the purported benefits of the proposed kiosk, I have not taken these matters into account other than in respect of heritage assets where the National Planning Policy Framework (the Framework) advises at Paragraph 196, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal".

Main Issue

7. The main issue is the effect of the siting and appearance of the proposed communication hubs upon the character and appearance of the locations proposed; with specific regard to the Huddersfield Town Centre Conservation Area, and as identified in each appeal below, the setting of designated heritage assets.

Reasons

8. Each communication hub would be a dark grey rectangular structure, around 2.63 metres high, 1.34 metres wide with a depth of about 0.32 metres. The fronts would contain a projecting canopy of around 0.6 metres under which would be a digital interactive touch screen, telephone handset and emergency call button. Clear glazed side sections are incorporated in the design that would enable visibility through the structure.
9. The overall appearance of the communication hub is modern, utilitarian, tall and bulky. In this regard, it may not be suitable in more sensitive locations. That said, its location in less sensitive areas could be appropriate as there is nothing fundamentally offensive about the design.
10. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the policies of the development plan and the Framework only in so far as they are a material consideration relevant to matters of siting and appearance.
11. The appeal sites are all located within Huddersfield Town Centre Conservation Area (CA). The significance of the CA is derived from its historic, evolving and high quality townscape and the diversity of its architecture. The statutory requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Furthermore, I have considered the impact of the proposals on the setting of various listed buildings, as referred to in each appeal, and had special regard to the desirability of preserving the setting of each listed building as required under Section 66(1) of the Act.

Appeal A

12. The site for the proposal would be outside 11-13 Ramsden Street, adjacent to a pedestrian junction between Ramsden Street, Peel Street and Victoria Lane. The site is also located opposite Huddersfield Town Hall, and directly west of Huddersfield Library and Queensgate Market. All 3 of these buildings are Grade II Listed. The setting of the listed buildings encompasses the form of the street pattern and relationship with surrounding buildings.
13. There is very little other street furniture in the area in this location, and this gives the footways and public areas a sense of space and openness that contributes towards the historic character and townscape. Furthermore, where there is street furniture, it is of a traditional style with conservation type street lighting columns. The frontage to No 11-13 is traditional and well preserved, with narrow and well-proportioned openings.
14. In this location, the proposal would introduce a modern, tall and substantially sized conspicuous development into the street. Despite its narrow profile, the sheer height and width would erode the sense of space and openness and its design would appear incongruous and unsympathetic against the backdrop of No 11-13 and within the setting of the listed buildings.

Appeal B

15. The site for the proposal would be the footway to the front of 4 Market Place. Directly opposite No 4 is Market Cross, an open plaza with central listed memorial. No 4-6 Market Place is Grade II Listed, but contains a modern glazed shop front with the original façade evident at the upper floors. The setting of the listed building encompasses the form of the street pattern, relationship with surrounding buildings and the plaza to the front.
16. The street was particularly busy and commercial in nature, and there is an array of existing street furniture being close to the crossroads with Westgate and Kirkgate. Railings surround the corners, there are street lighting columns, traffic signals and signs, bollards and bins. The proposal would conspicuously and adversely contribute to the existing clutter. Added to this would be its modern, tall and substantially sized scale that would appear incongruous and unsympathetic in this street scene. Despite its position over the road, I also agree with the Council that it would detrimentally affect the traditional setting of the plaza, which is a unique feature of the CA.
17. Furthermore, whilst it would be located at the edge of the pavement, the proposal's size and design would erode the open setting of the listed building and its relationship with the plaza.

Appeal C

18. The site is within the eastern footway of John William Street, located to the front of Lion Chambers, a Grade II* Listed Building. Opposite the site is the Grade II* listed Britannia Buildings and St George's Square, a multi-use open space, which fronts Huddersfield Railway Station, a Grade I Listed Building. The majority of all other surrounding buildings are also listed. The wide street pattern and block layout forms part of the setting of the listed buildings as does St George's Square on approach to the Railway Station.
19. There is very little other street furniture in the area in this location, and this gives the footways and public areas a formal sense of space and openness that contributes towards the value and setting of the historic and well preserved character and townscape.
20. The proposal would be wholly inappropriate in this location, situated almost outside the main entrance to Lions Chambers. The conspicuously modern utilitarian design and large scale would be unsympathetic, harmful and incongruous; damaging and eroding the setting of the listed buildings and the character of the CA.

Appeal D

21. The site is on the edge of St George's Square to the front of the Grade I listed Huddersfield Railway Station, and the front of the Grade II* Listed Building 7 St George's Square. To the south of the application site is the Grade II* listed Britannia Buildings, to the north is the Grade I listed George Hotel. To the east of St George's Square, across John William Street, is Lion Chambers, another Grade II* Listed Building. The proposal would be sited within the setting of the Railway Station, given that St George's Square forms an open and formalised plaza on approach to the notable station façade.

22. In this location, the proposed kiosk would appear as an obtrusive and unplanned feature which would disrupt the open design of the public realm and multi use area, and the open, historic and well preserved approach to the railway station.
23. Moreover, it would also appear wholly inappropriate and incongruous. It would introduce an overly modern and conspicuous structure that would be harmful and unsympathetic. It would damage and erode the setting of the listed buildings and harm the character and appearance of the CA.

Appeal E

24. The site is on the wide expanse of footway along Market Street, located to the front of 19-23 Market Street, a large retail unit and Grade II Listed Building. The setting of the listed building includes the wide forecourt to the front. Opposite the site is a large relatively modern supermarket and multi storey car park development.
25. On the footway, there is existing street furniture, comprising planters, ticket machine, street lighting columns, railings, street cabinets, road signs and street lights along with a bus shelter opposite. However, this existing furniture is mostly located away from the frontage of the listed building such that the unhindered wide forecourt enables a sense of openness in which the building can be appreciated. This forms an important part of its setting.
26. As a result of the proposed siting, the modern scale and design of the proposal would interrupt this open expanse of footway and this would harmfully affect the setting of the listed building and cause harm to the character and appearance of the CA. Furthermore, despite most of the existing street furniture being located to the side of the building, the large and substantial size of the proposal would be conspicuous, contributing to street clutter in the area.

Appeal F

27. The site is located on a pedestrianised commercial street. The communication hub would be sited outside 25-27 New Street, a retail store with a modern shop front and dilapidated first floor appearance. Directly outside the store is a set of rubbish bins and there is other street furniture in the locality, such as bollards, A-boards, seats, planters and street lighting columns.
28. The adjoining building to the south, 29-35 New Street is Grade II Listed. Its setting comprises the area to the front of the buildings given its formal relationship with the street. Projecting from it is a glazed single storey canopy into Market Avenue along with seating to either side.
29. Whilst there is no coherence to the existing street furniture, the existing street is wide and it does not appear overly cluttered, such that the proposal would not adversely add to visual clutter. Furthermore, the location is less sensitive than the other appeals; and given the width of the pedestrianised street, the scale would not appear overly conspicuous or dominant.
30. Therefore, in this location, the proposal would have an acceptable effect upon the setting of the listed building and the character and appearance of the CA.

Conclusion for Appeals A, B, C, D and E

31. The Framework states that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The harm to the CA and the setting of the listed buildings would be less than substantial. The Framework details that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
32. Each proposal would support the expansion of electronic communications networks. They would also afford access for wheelchair and mobility scooters and provide public access to a payphone along with a digital touch screen to enable access to the internet and Council webpage. Whilst all these matters would represent public benefits, these would not outweigh the harm I have identified in each appeal.
33. Consequently, the siting and appearance of the communication hub in Appeals A, B, C, D and E would have an unacceptable and harmful effect upon the character and appearance of the area, failing to preserve or enhance the CA or preserving the setting of the listed buildings. Insofar as they are a material consideration, this would be contrary to the design aims of Policies LP24 (a) and LP35 (3. a & b) of the Kirklees Local Plan and Paragraphs 127 and 190 of the Framework.
34. For the reasons set out above, I conclude that the Appeals A, B, C, D and E should be dismissed.

Conclusion for Appeal F

35. The siting and appearance of the communication hub in Appeal F would have an acceptable effect upon the character and appearance of the area, preserving the CA and the setting of the nearby listed building. Insofar as they are a material consideration, this would be compliant with the design aims of Policies LP24 (a) and LP35 (3. a & b) of the Kirklees Local Plan and Paragraphs 127 and 190 of the Framework.
36. Any planning permission granted for the development 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.
37. For the reasons set out above, I conclude that Appeal F should be allowed.

Katie McDonald

INSPECTOR