
Appeal Decision

Site visit made on 7 January 2020

by E Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2020

Appeal Ref: APP/Z4718/W/3235295

Os 45-47 New Street Huddersfield HD1 2BQ.

- 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) Order 2015.
 - The appeal is made by Infocus Public Networks Limited against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/91619, dated 15 May 2019, was refused by notice dated 8 July 2019.
 - The development proposed is the installation of a Communication Hub.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. In the interests of clarity and precision I have amended the description of development from that presented on the appeal form to that described by the Council in its report.
3. As an electronic communications code operator, the appellant benefits from deemed planning permission for development for the purpose 'of the operator's electronic communication network' under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), subject to prior approval by the local planning authority of siting and appearance. The provisions of the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. The appellant applied to the Council on that basis.
4. As the principle of development is established, considerations such as need for the hub are not a relevant matter. The Council determined that prior approval was required and refused. Accordingly, the main issue is set out below.

Main Issue(s)

5. The main issues in this case is the effect of the siting and appearance of the development on;
 - (a) the character and appearance of the Huddersfield Town Centre Conservation Area (HTCA);

- (b) the character and appearance of the surrounding area more generally; and
- (c) the setting of the adjacent Grade II Listed Building 42-48 New Street.

Reasons

6. 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 taken account of 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. Those relevant are policies LP21, LP24(a), LP35 of the Kirklees Local Plan February 2019, which taken together are concerned with the effect of development on the appearance, highway safety and environment of Kirklees.
7. Paragraphs 91 and 92 of the Framework seek street layouts that allow for easy pedestrian and cycle connections, are safe and accessible, have the use of clear and legible pedestrian routes with layouts that encourage walking, and which plan positively for the shared use of public space. Paragraph 112 supports the development of communications infrastructure noting "it is essential for economic growth and social well-being." However, the Framework also refers to appropriate design, character and appearance and pedestrian movement in paragraph 127 seeking to ensure amongst other things that developments add to the quality of the area, are visually attractive, are sympathetic to the local character, establish a strong sense of place and create accessible places.
8. The hub is designed as a free-standing structure 2.6m high and 1.3m wide, with a total depth of 0.9m including the glass canopy. It would comprise of a mild steel casing, powder coated in metal chain grey with a glass canopy with solar panel on the roof. This would incorporate both a telephone, LCD touch screen and other means of electronic communications.

The character and appearance of HTCA

9. The site of the proposed hub is on part of the pedestrianised street in the centre of Huddersfield. New Street is a wide pedestrianised street lined by a mixture of retail and commercial properties typical of a town centre location. The position proposed for the hub is adjacent to a litter bin but set 3.4m from the façade of the front of the buildings on the eastern side of New Street, opposite the entrance to the Imperial Arcade.
10. In the vicinity of the proposed hub whilst there is a line of bollards running parallel with the front of the adjacent properties it has a feeling of spaciousness as street furniture is largely absent in this immediate locality which I consider is a positive factor in contributing to the character and appearance of this part of the HTCA. The proposed hub at 2.6m high and 1.3m wide would introduce a large structure into the street reducing this sense of openness and as a consequence detracting from the character of the area.
11. The introduction of the proposed hub in this location would fail to preserve the character and appearance of this part of the HTCA.

The character and appearance of the area more generally

12. I do not agree with the Council that the introduction of the hub in this location would create an unsightly degree of street clutter in this particular part of New Street as referred to above in this specific location there is a sense of spaciousness due to the lack of street furniture. To this extent it is not cluttered in my view, nevertheless the proposed development would introduce a further element of street furniture into the currently spacious vista which I consider harms the character and appearance of the street to the detriment of the character and appearance of Huddersfield New Street.

The setting of 42-48 New Street

13. The spaciousness of this part of the street currently allows uninterrupted views of the façade of the 42-48 New Street a Grade II Listed Building. Whilst the hub would be outside of this property it would be set some distance away towards the opposite side of the street and would not in my view be particularly noticeable when viewing this façade and I do not therefore consider the development proposed would adversely affect the setting of this Listed Building and in this respect I do not find that the scheme would harm the setting of this Listed Building.

Planning Balance

14. The Framework at paragraph 193 requires consideration of the impact of a proposed development on the significance of a heritage asset recognising that great weight should be given to the asset's conservation. In this case I have found that the siting and the appearance of the proposed hub would lead to less than substantial harm to the conservation area.
15. Whilst the proposed hub would utilise a solar panel and has been designed to limit the potential for crime and allow easy wheelchair access, I consider that the siting and appearance of the development would harm the character and appearance of the surrounding area and fail to preserve or enhance this part of the HTCA, these benefits would not outweigh or prevent the harm identified in relation to the main issue and consequently do not meet the tests set out in paragraph 196 of the Framework.

Conclusion

16. For the reasons given above and having taken all matters raised into account, I conclude that the appeal should be dismissed.

Edwin Maund

INSPECTOR