
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: 12th February 2020

Appeal Ref: APP/Z4718/W/19/3235299
27 King Street, Huddersfield, HD1 2PZ

- 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 2019/91613, 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

5. The main issue in this case is the effect of the siting and appearance of the development on the character and appearance of the surrounding area, including the effect of the proposal on the setting of the adjacent Huddersfield Town Centre Conservation Area (HTCA).

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.
9. The site of the proposed hub is on part of the pedestrianised street outside of no. 27 King Street close to the meeting point of the access to the Piazza covered shopping area. I note from the appeal questionnaire and supporting documentation that the site is outside of the HTCA. The HTCA is immediately to the north east of the site and I have a statutory duty to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area.
10. The hub would be sited just to the south of a street lighting column. During my visit I noted that in this section of the street there is a mixture of other street furniture including benches, lamp standards, pedestrian and traffic signs, telephone kiosks, an ATM machine as well as small utility service boxes, consequently I share the concern identified by the Council that the addition of the kiosk would add to the cluttered appearance of this part of the street adversely affecting its character and appearance.
11. Despite the simple design and glass canopy reducing the visual appearance of the proposed hub the proposal would be readily viewable along the street when approaching from both directions along King Street. Whilst the effect would be confined to the immediate surroundings of the site and consequently would not harm the setting of the HTCA as a whole, the proposal would harm the character and appearance of the street by adding to the proliferation of the street furniture in the area.
12. Therefore, I consider that the siting and appearance of the development would harm the character and appearance of the surrounding area.

Other Matters

13. The proposed hub would utilise a solar panel and has been designed to limit the potential for crime and allow easy wheelchair access.
14. However, these benefits would not outweigh or prevent the harm identified in relation to the main issue.

Conclusion

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

Edwin Maund

INSPECTOR