



Appeal Decision

Site visit made on 20 January 2020 by L Wilson BA (Hons) MA

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2020

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, on behalf of Infocus Public Networks Ltd, against the decisions of Liverpool City Council.
 - The development proposed in each case is the installation of a communication hub on the highway by an electronic communication code operator.
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Appeal A Ref: APP/Z4310/W/19/3236627

81 Lime Street, Liverpool L1 1JQ

Grid Reference Easting 335053, Grid Reference Northing 390318

- The application Ref 19PT/1339, dated 23 May 2019, was refused by notice dated 12 July 2019.
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Appeal B Ref: APP/Z4310/W/19/3236611

Lime Street, Liverpool L1 1EP

Grid Reference Easting 334976, Grid Reference Northing 390502

- The application Ref 19PT/1352, dated 23 May 2019, was refused by notice dated 12 July 2019.
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Appeal C Ref: APP/Z4310/W/19/3236629

Corner Richmond Street, Whitechapel, Liverpool L1 1HQ

Grid Reference Easting 334620, Grid Reference Northing 390421

- The application Ref 19PT/1340, dated 23 May 2019, was refused by notice dated 12 July 2019.
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Appeal D Ref: APP/Z4310/W/19/3236630

Os The Met Quarter, Whitechapel, Liverpool L1 6DA

Grid Reference Easting 334585, Grid Reference Northing 390388

- The application Ref 19PT/1341, dated 23 May 2019, was refused by notice dated 12 July 2019.
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Appeal E Ref: APP/Z4310/W/19/3236622

Corner Basnett Street, Church Street, Liverpool L1 1DF

Grid Reference Easting 334724, Grid Reference Northing 390269

- The application Ref 19PT/1333, dated 23 May 2019, was refused by notice dated 12 July 2019.
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Decisions – Appeals A to E

1. All the Appeals are dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters and Background – Appeals A to E

3. The Appeals relate to proposals by Infocus Public Networks Ltd for 'the installation of a communication hub on the highway by an electronic communication code operator' at five sites in Liverpool. The proposed apparatus is identical in each case. Therefore, in the interests of conciseness, I will evaluate all these Appeals in the same decision.
4. The proposed call boxes would have a footprint of approximately 1.34 metres by 0.92m, and they would be 2.63m high. The call boxes would be coloured metal chain grey with a 32" touch screen and would have a projecting canopy.
5. The Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 amends the GPDO¹ by removing permission for the installation, alteration or replacement of a public call box by, or on behalf of an electronic communications code operator. This is subject to transitional and saving provisions. For the purposes of these Appeals, the proposals fall to be considered against the provisions of Schedule 2, Part 16, Class A of the GPDO. This sets out permitted development rights for development carried out by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network.
6. In the reasons for refusing to grant prior approval, the Council made reference to Policies Gen3, Gen6, Gen9, HD5, HD7, HD14, HD18, HD27, T7, T8 and T9 of the Liverpool Unitary Development Plan (2002); the Liverpool Maritime Mercantile City: World Heritage Site Supplementary Planning Document (2009) (SPD) and the National Planning Policy Framework (the 'Framework').
7. The principle of development is established by the GPDO and permitted development rights are set out in Schedule 2 Part 16 for this type of development. The provisions do not require regard be had to the development plan. I will have regard to the policies of the development plan, SPD and the Framework in so far as they are relevant to matters of siting and appearance.

Main Issues

8. These are, the effect of the siting and appearance of the proposed development upon:
 - i. the character and appearance of the area, and linked to that, as appropriate, whether it would preserve or enhance the character or appearance of the conservation area, preserve the setting of nearby listed buildings and the effect on the Liverpool Maritime Mercantile City World Heritage Site (WHS); and
 - ii. the safe and efficient operation of the highway.

Reasons for the Recommendation

9. All the appeal sites are located either within the WHS or within its buffer zone. The WHS has outstanding universal value primarily because:
 - Liverpool played a leading role in the development of dock construction, port management and international trading systems in the 18th and 19th centuries

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- The buildings and structures of the port and the city are an exceptional testimony to mercantile culture and
 - Liverpool played a major role in influencing globally significant demographic changes in the 18th and 19th centuries, through a) its involvement in the Trans-Atlantic Slave Trade and b) its involvement as the leading port of mass European emigration to the New World.
10. The SPD indicates that all development proposals within the WHS should be considered for their potential direct impact on the outstanding universal value of the WHS. Similarly, proposals within the buffer zone should not adversely affect the setting of the WHS.
11. Framework paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where there is less than substantial harm, this harm should be weighed against the public benefits of the proposal, where appropriate, securing its optimum viable use. I shall proceed to consider the effect of each proposal on a case by case basis.

Appeal A - 81 Lime Street

Character and Appearance

12. The appeal site is located within a commercial area adjacent to a traffic-controlled junction with a pedestrian crossing. The area is characterised by a range of architectural styles and the quality of buildings vary. The kiosk would be located within the setting of three listed buildings: The Vines Public House which is a Grade II* listed building, The Adelphi Hotel and Lewis's Department Store which are both Grade II listed buildings. The listed buildings make a positive contribution to the area. The kiosk would also be situated within the WHS buffer zone.
13. The kiosk would be adjacent to The Vines which is distinctive in the street scene. The ground floor is constructed from granite and the upper floors from stone. The three-storey building has a large round tower on the corner with a domed roof. The detailing, including moulded architraves, finials, balustraded parapet, and Ionic pilasters, adds to the building's distinctiveness. Such features provide interest within the historic setting.
14. South of the appeal site, on the opposite side of Copperas Hill, is The Adelphi Hotel and Lewis's Department Store is diagonally opposite the site. Both of these listed buildings are 7 storeys and constructed of Portland stone. The Hotel is stepped back from the main highway, thus when travelling in a southerly direction only a section of the façade can be seen from the appeal site. The Adelphi is notable for its round-arched windows with cornicing and recessed bays. The main entrance of Lewis's faces towards the appeal site which features a statue and reliefs.
15. The extent of street furniture, in the vicinity of the appeal site, is extremely limited which results in a relatively open footway. There are road signs, lampposts and a bus shelter. There is also a bike stand which is on the opposite side of Lime Street. The WHS is clearly visible from the appeal site and naturally draws the eye due to the height of buildings along this section of Lime Street. Owing to the nearby bus stop, the

kiosk would be situated on a section of pavement where it widens. Thus, any street furniture sited within this location would have a greater impact upon the WHS because it would be situated more centrally within the highway.

16. Given the lack of street furniture, the kiosk would be conspicuous and stand out as a dominant, intrusive feature in this section of Lime Street because of its design, scale and massing. The modern and bulky design would contrast with the character of the traditional buildings. The siting and appearance of the scheme would be visually intrusive and would harm the character and appearance of the area.
17. The proposal would have an adverse effect upon the listed buildings and setting of the WHS because of its appearance and siting. The kiosk would detract from the ability to appreciate the adjacent listed buildings both in terms of individual views and when seen collectively. The scheme would draw undue attention away from the architectural merits of the heritage assets and would not respect the sites historic context. Accordingly, the proposal would fail to preserve the setting of the listed buildings and detrimentally affect views into the WHS.
18. I agree with the Council that the level of harm would be less than substantial, nevertheless it is of considerable importance and weight. I acknowledge that the kiosk would provide a payphone, internet and Council webpages for public use. It would also be accessible to wheelchair and mobility scooter users. Whilst I do not dispute these benefits, there is nothing before me to indicate that similar benefits could not be achieved by siting the kiosk in a more sensitive location without causing harm to designated heritage assets. In any event, the benefit arising from the proposal would be limited in scale and, having regard to paragraph 196 of the Framework, would not outweigh the harm to the heritage assets that I have identified.

Highway

19. The appellant asserts that the appeal site location has been chosen in accordance with the best practice on footpath accessibility. Undoubtedly the call box would reduce the width of the pavement. During the time of my site visit, this area of pavement had high levels of pedestrian flow. I have seen nothing to suggest that my observations are untypical. It is likely that the number of pedestrians would increase at peak times due to the nearby bus stop and train stations.
20. The proposed kiosk would not align with the existing road sign which has already impacted the flow of pedestrians. The road sign is sited towards the centre of the footway whereas the kiosk would be located to the side. A lack of evidence has been submitted by the appellant to demonstrate that the proposal would not detrimentally impact upon pedestrian movement. Thus, based on the submitted evidence, the proposal would create a further pinch point and have an unacceptably adverse effect on pedestrian movement.
21. The Council are also concerned that the scheme would distract drivers as it may feature advertisements. The proposal before me does not include advertisements, furthermore structures such as this are not uncommon within city centres adjacent to roads. Although Lime Street is a busy highway, I am not convinced that the kiosk would distract drivers.
22. Accordingly, whilst the siting and appearance of the call box would unacceptably impede pedestrian movement, there is no convincing evidence before me that the kiosk would interfere with the free flow of traffic and have a detrimental impact on the safe function of Lime Street.

Appeal B - Lime Street

Character and Appearance

23. The proposed kiosk would be situated to the front of Lime Street Station which is a Grade II listed building and main gateway to Liverpool city centre. The site is located within the William Brown Street Conservation Area and is directly adjacent to the boundary of the WHS. Additionally, St George's Hall, a Grade I listed building, is opposite the site.
24. Lime Street Station is distinct for its curved glass roof. The elevation facing Lime Street is constructed from stone, it has round-arched openings with architraves and keystones. St George's Hall is striking when exiting the train station. The building is raised on a platform and accessed by a flight of steps. It is notable for its classical style, fluted columns and cornice detailing.
25. Within the SPD, both listed buildings are highlighted as key visual landmark buildings within the WHS and buffer zone. The SPD highlights significant local views which are considered important as they aid the legibility and understanding of the City and are also significant to the outstanding universal value of the WHS, the character of conservation areas and the wider city centre. The kiosk would be situated in an important view as defined by vista g in the SPD.
26. The SPD also highlights that the public realm around the entrance to Lime Street Station previously detracted from the area. The space was improved in 2010 and it now makes a positive contribution to the character of the Conservation Area. This area of public realm has clearly been designed to feel spacious and open with minimal street furniture. The Conservation Area is largely characterised by grand classical, stone faced buildings and areas of public spaces.
27. The existing street furniture is limited and comprises lampposts, a bin and cycle stand. Due to the scale and massing of the existing street furniture they do not appear overly conspicuous within the street scene. Contrastingly, the scheme would draw the eye due to its footprint, height and modern appearance. The kiosk would not reflect the scale of existing street furniture and would appear significantly more dominant because of its bulky appearance. Consequently, it would not reflect the open and spacious character of the area. For all of those reasons the proposal would be visually intrusive and would harm the character and appearance of the area.
28. The proposals impact when travelling in a southerly direction would be limited because it would be seen against the backdrop of more modern buildings. However, travelling north, it would have a negative impact upon the Conservation Area, WHS and listed buildings because of its appearance and siting. It would be a dominant modern addition to the street scene, situated in an unduly prominent position. Thus, the scheme would detract from the architecture of the listed buildings and character of the Conservation Area, additionally it would not respect important views of the WHS. Accordingly, the proposal would fail to preserve or enhance the character or appearance of the setting of the Conservation Area. Additionally, the proposal would fail to preserve the setting of the listed buildings and WHS.
29. I agree with the Council that the level of harm would be less than substantial, nevertheless it is of considerable importance and weight. I acknowledge the kiosk would be accessible to wheelchair and mobility scooter users, and would also provide for public use a payphone, internet and Council webpages. Whilst I do not dispute these benefits, there is nothing before me to indicate that similar benefits could not be

achieved by siting the kiosk in a more sensitive location without causing harm to designated heritage assets. In any event, the benefit arising from the proposal would be limited in scale and, having regard to paragraph 196 of the Framework, would not outweigh the harm to the heritage assets that I have identified.

Highway

30. The proposed call box would reduce the width of the pavement. During the time of my site visit this area had high levels of pedestrian flow. I have seen nothing to suggest that my observations are untypical. It is likely that at peak times pedestrian flow would increase with commuters accessing and exiting the train station.
31. As highlighted in the previous section, this portion of footway has limited existing street furniture. Although the kiosk would impact the flow of pedestrians, there is no evidence before me that the scheme would unacceptably impede pedestrian movement. There would be adequate distance to the side of the kiosk for pedestrians to navigate around.
32. The Council are also concerned that the call box would distract drivers as it may have advertisements. The proposal before me does not include advertisements, furthermore structures such as this are not uncommon within city centres adjacent to roads. Although Lime Street is a busy highway, there is no convincing evidence that demonstrates drivers would be unduly distracted.
33. Accordingly, the siting and appearance of the scheme would not be detrimental to the safe and efficient operation of the highway.

Appeal C - Corner Richmond Street

Character and Appearance

34. The proposed call box would be located adjacent to retail units. As highlighted by the Council, the site is located within the Castle Street Conservation Area and within the WHS buffer zone. Based on the available evidence, it appears the appeal site does not form a key view of the WHS. From the information before me, the Conservation Area is characterised by commercial buildings which range in architectural styles with stone and brick façades. The majority of buildings are three or four storeys in height. The quality of buildings within the street scene varies, most of the ground floor shop frontages are modern with traditional upper floors.
35. The kiosk would be situated within the setting of a Grade II listed building; 45 Whitechapel, 19-23 Sir Thomas Street. The Listed Building makes a positive contribution to the street scene. It is notable for its stucco façade, pediments, cornice details and central stack.
36. Within this section of the pavement there is limited street clutter. In the vicinity street furniture consists of a waste bin, lampposts, bollards and benches. The scheme would not align with the row of benches or lampposts and would sit uncomfortably close to the existing waste bin. The existing street furniture is either low lying or tall and slender which results in an open and spacious feel. The spacing between the kiosk and waste bin would not reflect the existing street furniture; thus, the scheme would conflict with the open and spacious character of the area. Due to its footprint and height the kiosk would introduce a built form which would be significantly more noticeable than the existing street furniture and would draw the eye. For all of those reasons it would be visually intrusive and would harm the character and appearance of the area.

37. Whilst the proposal would cause harm to the character and appearance of the immediate vicinity it would not unduly impact views of the WHS, Listed Building and would preserve the Conservation Area. It would not have any notable impact on how those heritage assets are experienced because the kiosk would be seen within the context of modern retail units, in particular Metquarter, which is a large modern shopping centre. Consequently, the proposal would have a neutral effect on heritage assets and would preserve the character and appearance of the Conservation Area and setting of both the WHS and Listed Building.

Highway

38. The proposed call box would reduce the width of the footway. During the time of my site visit, this area had high levels of pedestrian flow. I have seen nothing to suggest that my observations were untypical.
39. As this area is pedestrianised there is space for people to move relatively freely. Although the kiosk would restrict the flow of pedestrians, it would not impede pedestrian flows to an unacceptable degree due to the width of the pedestrianised area.
40. The Council are also concerned that the kiosk would obstruct delivery and service vehicles. The call box would be located towards the eastern side of Whitechapel. On my site visit I observed delivery vehicles accessing and parking on Whitechapel. The removable bollards and floor surface subtly mark the vehicle area. Based on the available evidence, delivery and service vehicles would still be able to access this area due to the width of the highway. Thus, the scheme would not obstruct access.
41. Accordingly, the siting and appearance of the call box would not be detrimental to the safe and efficient operation of the highway.

Appeal D - Os The Met Quarter

Character and Appearance

42. The appeal site is adjacent to Metquarter, in primarily a commercial area. Metquarter is a large modern shopping centre which has a larger footprint than other buildings within this section of Whitechapel. As highlighted by the Council, the site is located within both the Castle Street Conservation Area and character area 4 of the WHS. From the information before me, the Conservation Area and this part of the WHS is characterised by commercial buildings which range in architectural styles with stone and brick façades. The majority of buildings are three or four storeys in height. The quality of buildings within the street scene varies, most of the ground floor shop frontages are modern in comparison to the upper floors.
43. This section of Whitechapel has a sense of openness and spaciousness as there is only a bollard within this section of the highway. The lack of street furniture contrasts with the eastern side of Whitechapel which has a row of lampposts and benches and is an essential element to the character of this section of highway. The call box would not be sympathetic to this section of the highway as it would appear as a dominant addition due to its scale and massing. The proposal would be prominent in the street scene and would not reflect the modest size of the existing street furniture on the eastern side. For these reasons, the scheme would harm the character and appearance of the area.
44. Whilst the proposal would cause harm to the character and appearance of the immediate vicinity it would not unduly impact the outstanding universal value of the WHS and would preserve the Conservation Area. It would not have any notable impact on how those heritage assets are experienced because the kiosk would be seen within

the context of modern retail units, in particular Metquarter. Consequently, the scheme would have a neutral effect on heritage assets and would preserve the character and appearance of the Conservation Area and the WHS.

Highway

45. The proposed call box would reduce the width of the footway. During the time of my site visit, this area had high levels of pedestrian flow. I have seen nothing to suggest that my observations were untypical.
46. As this area is a pedestrianised area and there is a lack of street furniture pedestrians can move relatively freely. The kiosk would restrict the flow of pedestrians, in particular those entering or leaving Metquarter. However, due to the width of the pedestrianised area it would not impede pedestrian flow to an unacceptable degree.
47. The Council are also concerned that the kiosk would obstruct delivery and service vehicles. On my site visit I observed delivery vehicles accessing and parking on Whitechapel. The removable bollards and floor surface subtly mark the vehicle area. Based on the available evidence, delivery and service vehicles would still be able to access this area due to the width of the highway. Therefore, the proposal would not obstruct access.
48. Accordingly, the siting and appearance of the call box would not be detrimental to the safe and efficient operation of the highway.

Appeal E - Corner Basnett Street

Character and Appearance

49. The proposed call box would be located in a pedestrianised, commercial area, outside the front façade of Marks and Spencer. The appeal site is situated within the WHS buffer zone and adjacent to a Grade II listed building: Compton House. I observed on my site visit that buildings within the area had modern ground floor façades with traditional upper floors. The Listed Building makes a positive contribution to the street scene. It is notable for its large round headed windows with broken pediment at first floor, octagonal turrets, central rectangular panel with Liverpool arms over, bull's eye dormers and truncated stacks.
50. Within this section of Church Street there is extremely limited street clutter. Adjacent to the appeal site is a waymark sign. In the wider context is an advertisement unit, telephone boxes and tree planters with benches which are primarily located on the southern side of Church Street. The existing telephone boxes align, as do the tree planters. In contrast to the telephone boxes and tree planters, the kiosk would be situated on the northern side of Church Street where there is a sense of openness. The proposal would harm the character and appearance of the area due to its size and massing. The scheme would introduce a built form which would appear incongruous and unduly prominent in the context of its surroundings. The kiosk would draw the eye and detract from the ability to appreciate the adjacent Listed Building where there is currently only modest street furniture. Based on the evidence submitted, it appears this section of the WHS buffer zone is not considered to be an important view, thus the proposal would not adversely affect the setting of the WHS.
51. I agree with the Council that the level of harm would be less than substantial, nevertheless it is of considerable importance and weight. I acknowledge that the kiosk would be accessible to wheelchair and mobility scooter users. Additionally, it would provide a payphone, internet and Council webpages for public use. Whilst I do not

dispute these benefits, there is nothing before me to indicate that similar benefits could not be achieved by siting the kiosk in a more sensitive location without causing harm to a designated heritage asset. In any event, the benefit arising from the proposal would be limited in scale and, having regard to paragraph 196 of the Framework, would not outweigh the harm to the heritage asset that I have identified.

Highway

52. The proposed call box would reduce the width of the footway. During the time of my site visit, this area had high levels of pedestrian flow. I have seen nothing to suggest that my observations were untypical.
53. As Church Street and Basnett Street are pedestrianised highways, with limited street furniture, pedestrians can move relatively freely. Although the kiosk would restrict the flow of people, it would not impede pedestrian flow to an unacceptable degree due to the width of the pedestrianised area.
54. The Council are concerned that the kiosk would obstruct delivery and service vehicles. Church Street is a wide highway and there would be more than adequate distance for vehicles to access this area. Based on the available evidence, delivery and service vehicles would still be able to access this area due to the width of the highway and the proposal would not obstruct access.
55. Similarly, I am not convinced that the proposal would have a negative impact upon CCTV cameras. The cameras I observed were located above the ground floor of buildings and therefore higher than the proposed kiosk. There is a lack of evidence to demonstrate that the kiosk would have a negative effect upon highway safety in relation to the utility of safety cameras.
56. Accordingly, the siting and appearance of the scheme would not be detrimental to the safe and efficient operation of the highway.

Conclusions and Recommendations

57. For the reasons given above, I recommend that all of the appeals should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

58. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree that all of the appeals should be dismissed.

Chris Preston

INSPECTOR