
Appeal Decisions

Site visits made on 7 January 2020 by C McDonagh BA (Hons), MA

by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Nathan Still on behalf of Infocus Public Networks Ltd against the decision of Liverpool City Council.
 - The development proposed in each case is the installation of an electronic communications apparatus comprising a telephone kiosk.
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Appeal A - Ref: APP/Z4310/W/19/3236537 **Brownlow Hill, Liverpool, L3 5SX**

- The application Ref 19PT/1359, dated 21 May 2019, was refused by notice dated 11 July 2019.
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Appeal B - Ref: APP/Z4310/W/19/3236563 **James Street, Liverpool, L2 1AB**

- The application Ref 19PT/1342, dated 23 May 2019, was refused by notice dated 11 July 2019.
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Appeal C - Ref: APP/Z4310/W/19/3236548 **Corner of Brunswick Street and Castle Street, Liverpool, L2 0NR**

- The application Ref 19PT/1344, dated 23 May 2019, was refused by notice dated 11 July 2019.
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Appeal D - Ref: APP/Z4310/W/19/3236551 **Near Union Court, Castle Street, Liverpool, L2 4TA**

- The application Ref 19PT/1353, dated 23 May 2019, was refused by notice dated 11 July 2019.
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Appeal E - Ref: APP/Z4310/W/19/3236561 **Corner of Princes Street and Dale Street, Liverpool, L2 2HF**

- The application Ref 19PT/1347, dated 23 May 2019, was refused by notice dated 11 July 2019.
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Appeal F - Ref: APP/Z4310/W/19/3236544 **Old Hall Street, Liverpool, L3 9NY**

- The application Ref 19PT/1419, dated 21 May 2019, was refused by notice dated 11 July 2019.
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Decisions

1. Appeals A-F are dismissed.

Procedural Matters and Background

2. The appeals relate to proposals by Infocus Public Networks Ltd for the installation of a telephone kiosk at six sites in Liverpool City Centre. The proposed apparatus is identical in each case. Therefore, in the interests of conciseness, I have dealt with all the appeal decisions in the same letter.
3. Whilst the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 amends the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) 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. Therefore, for the purposes of these appeals, which were validly made, the proposals fall to be considered against the provisions of Schedule 2, Part 16, Class A of the GPDO, which refers to development 'by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network'.
4. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed developments solely on the basis of their siting and appearance, taking into account any representations received. My determination of these appeals has been made on the same basis.
5. The Council has made reference in its decision notices to Policies GEN3, GEN6, GEN9, HD18, HD27, T7, T8 and T9 of the Liverpool Unitary Development Plan (UDP) and the National Planning Policy Framework (the Framework). Similarly, the appellant references the National Planning Practice Guidance (NPPG) as it relates to the support of telecommunications networks.
6. However, applications for prior approval are determined in relation to the criteria set out within the GPDO and, as such, do not require regard to be had to the Development Plan. Nonetheless, although not determinative, I take account of the above-mentioned policies and guidance in so far as they are relevant to matters of siting and appearance.
7. The design of each of the proposed kiosks is the same, comprising a two-sided, freestanding steel-framed kiosk, constructed with steel casings and toughened glass, with solar panels attached to a canopy. They would be 2.6m high, 1.3m wide and 0.9m depth including the canopy and are of dark grey appearance. While the orientation of the kiosks is not clear from the plans, one side contains the touch-screen telephone and browser element while the other has a non-illuminated generic image icon to indicate its purpose.
8. All appeal sites are located within the Liverpool Maritime Mercantile City World Heritage Site (WHS) Buffer Zone. Furthermore, appeals **A-E** are located within the setting of Listed Buildings and appeals **B, C, D** and **E** are also located within the Castle Street Conservation Area (CA). According to statute, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention shall be paid to the desirability of conserving or

enhancing the character or appearance of these areas. National planning policy, as set out in the Framework, states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation, and that significance can be harmed or lost through development within their setting.

Main Issues

9. The main issues are whether approval should be given in respect of the siting and appearance of the proposed developments with particular regard to the following:
- For Appeal **A** – whether the development would preserve or enhance the character and appearance of the Liverpool Maritime Mercantile City World Heritage Site (WHS), the setting of a nearby Listed Building and the safe and efficient operation of the public highway;
 - For Appeals **B-E** - whether the development would preserve or enhance the character and appearance of the WHS, the setting of nearby Listed Buildings and the Castle Street Conservation Area (CA), as well as the safe and efficient operation of the public highway;
 - For Appeal **F** – whether the development would preserve or enhance the character and appearance of the WHS and the safe and efficient operation of the public highway.

Reasons

Appeal A – Brownlow Hill

10. The appeal site is located to the front of the footway, set in slightly from the Brownlow Hill road amongst a line of trees and streetlights, one of which also hosts a traffic control sign. Other street furniture includes benches, traffic lights and a litter bin. The immediate vicinity is largely commercial in nature, with shops and offices prevalent. The Grade II Listed Adelphi Hotel is highly prominent in the locality.
11. The kiosk is located within the WHS buffer zone. The submitted Supplementary Planning Document (the SPD) details the significance of the WHS, which lies in the fact that the City of Liverpool was a major centre generating innovative technologies and methods in dock construction and port management in the 18th, 19th and early 20th centuries. Moreover, the city and the port of Liverpool are an exceptional testimony to the development of maritime mercantile culture in the 18th, 19th and early 20th centuries, and an outstanding example of a world mercantile port city.
12. While I appreciate the kiosk is a direct replacement for the existing version, which is three-sided with clear panels and has a larger footprint, it is taller and a more solid structure with no permeability in views towards the Listed Building. Although simple in form and design, which is dictated by its purpose, the kiosk would add clutter to the setting of the Listed Building with the inclusion of a modern structure at odds with the historic surroundings. As such it would not sit comfortably within the WHS buffer zone or adjacent to the Adelphi Hotel and would fail to preserve the significance and setting of both. The modern design and form of the kiosk would also be in stark contrast to the

existing street furniture present, which is functional in its appearance and would therefore be incongruous in its location.

13. Given the harm relates to only part of the setting of the WHS and Listed Building, there would be less than substantial harm to its significance. While some public benefits would arise as a result of the kiosk, such as the use of a public phone and internet access, these would not outweigh the harm caused to the setting of the Listed Building and WHS; harm which carries great weight. This is contrary to the aims of the Framework.
14. Further regard is had to the effect of the kiosk on the safe and efficient operation of the public highway. The footway is wide in this location, although it has purpose in its design intended to direct footfall through the centre of the pavement, indicated by coloured block paving, while street furniture is arranged in linear form either side. The wide profile of the kiosk would narrow this pathway but not extend into the central walkway much in the same manner as the existing kiosk. As such it is unlikely to affect pedestrian movements to any degree greater than the existing kiosk.
15. However, the proposed kiosk would obscure a road sign given its increased height, and its position has the potential to cause visual confusion when seen by passing motorists so soon after the kiosk. The kiosk would therefore have a detrimental effect on highway safety for road users.
16. In conclusion, in relation to appeal A, the proposed kiosk would harm the character and appearance of the WHS and Listed Building while also being detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal A.

Appeal B – James Street

17. The appeal site is located to the front of the footway next to a cycle rack containing bikes for hire. Other street furniture includes tall totem poles featuring advertisement flags, litter bins, a pedestrian crossing point and directional signage, most of which are set around the edge of Derby Square as it meets the busy James Street road. The predominant feature in the vicinity is the Grade II Listed Queen Victoria Monument.
18. The site is within the WHS buffer zone and the Castle Street CA and is also adjacent to the aforementioned monument. The Square is an impressive area of open space in an otherwise built up environment. The inclusion of the kiosk would add visual clutter when viewed alongside the cycle racks and other street furniture lining the road. Furthermore, being both tall and wide and of solid, dark appearance, the modern structure when viewed against the historic backdrop would harm the character and appearance of the WHS, CA and Listed Building. As such the kiosk would not sit comfortably within the WHS buffer zone or adjacent to the Grade II Listed monument. Therefore, it would fail to preserve the significance and setting of these heritage assets. Given the harm relates to only part of the setting of the WHS, CA and Listed Building, there would be less than substantial harm to their significance. While some public benefits would arise as a result of the kiosk, such as the use of a public phone and internet access, these would not outweigh the harm caused to the setting of the heritage assets, harm which carries great weight. This is contrary to the aims of the Framework.

19. Further regard is had to the effect of the kiosk on the safe and efficient operation of the highway. The footway is wide in this location, although street furniture is arranged in linear form either side in the form of the cycle rack and totem signs narrowing it somewhat. The wide profile of the kiosk would further narrow this pathway although given its location close to the edge of the path as it meets the road it is unlikely to affect pedestrian movement.
20. However, despite claims that the structure is within recommended separation distance from a road, I have nothing before me to indicate what this distance may be or from what source. Therefore, it would appear to me the proposed kiosk has the potential to cause visual confusion when seen by passing motorists given it would be located so close to the road. The kiosk would therefore have a detrimental effect on highway safety for road users.
21. In conclusion, in relation to appeal B, the proposed kiosk would harm the character and appearance of the WHS, CA and a Listed Building while also being detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal B.

Appeal C - Corner of Brunswick Street and Castle Street

22. The appeal site is located on the footpath near the corner of Castle Street and Brunswick Street. The path is largely devoid of other street furniture in the vicinity save for some benches and external seating for a café and has an open and spacious feel. The area is defined by banking institutions and features a proliferation of Listed Buildings, most notably the Grade I Old Bank of England building and Grade II* 36 Castle Street along with many other Grade II Listed Buildings. The site is also within the Castle Street CA and WHS buffer zone.
23. The lack of street furniture is a positive feature of the streetscene in this location and this setting allows the significance of the Listed Building to be appreciated. The addition of the kiosk in this location would add visual clutter, eroding this open feeling with a modern structure which would be visually discordant with the historic nature of the surrounding area. Therefore, it would fail to preserve the significance and setting of the WHS, CA and the numerous Listed Buildings, one of which is Grade I. Given the harm relates to only part of the setting of the WHS, CA and Listed Buildings, there would be less than substantial harm to their significance. While some public benefits would arise as a result of the kiosk, such as the use of a public phone and internet access, these would not outweigh the harm caused upon the setting of the heritage assets, harm which carries great weight. This is contrary to the aims of the Framework.
24. Furthermore, the kiosk would impact upon the safe and efficient operation of the highway. I noted on the site visit the street experienced high levels of pedestrian movements. The footway is wide in this location, but the site plan indicates the kiosk would extend into the footway. The wide profile of the kiosk would narrow the path here and create a pinch point between the kiosk and the external seating area of the café. The proposal, in combination with the aforementioned elements would have an unacceptably adverse effect on pedestrian permeability in what is a busy area.
25. With regard to motorists, the kiosk is located on a busy corner between Brunswick Street and Castle Street and is a tight bend leading into a narrow

street. Cars making this turn were constant during my observations on the site visit and the position of the kiosk has the potential to cause visual confusion when seen by passing motorists. The kiosk would therefore have a detrimental effect on highway safety for road users.

26. In conclusion, in relation to appeal C, the proposed kiosk would harm the character and appearance of the WHS, CA and Listed Buildings while also being detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal C.

Appeal D – Near Union Court, Castle Street

27. The appeal site is located on the footpath near Union Court on Castle Street. The path is largely devoid of other street furniture in the vicinity aside from traffic lights and directional signage for pedestrians. The kiosk location is outside of the Old Bank of England, a Grade I Listed Building, while in close proximity the Grade II* Listed Building, 36 Castle Street, along with many Grade II Listed Buildings are present. The site is also within the Castle Street CA and WHS buffer zone.
28. The lack of street furniture is a positive feature of the streetscene in this location and this setting allows the significance of the Listed Building to be appreciated. The addition of the kiosk in this location would add visual clutter, eroding this open feeling with a modern structure which would be visually discordant with the historic nature of the surrounding area. Therefore, it would fail to preserve the significance and setting of the WHS, CA and the numerous Listed Buildings. Given the harm relates to only part of the setting of the WHS, CA and Listed Buildings, there would be less than substantial harm to their significance. While some public benefits would arise as a result of the kiosk, such as the use of a public phone and internet access, these would not outweigh the harm caused upon the setting of the heritage assets, harm which carries great weight. This is contrary to the aims of the Framework.
29. Furthermore, the kiosk would impact upon the safe and efficient operation of the highway. I noted on the site visit the street experienced high levels of pedestrian movements. The footway is wide in this location, but the site plan indicates the kiosk would extend into the footway. The wide profile of the kiosk would narrow the path here and create a slaloming effect in combination with the signage and traffic lights. The proposal, in combination with the aforementioned elements would have an unacceptably adverse effect on pedestrian permeability in what is a busy area.
30. In conclusion, in relation to appeal D, the proposed kiosk would harm the character and appearance of the WHS, CA and Listed Buildings while also being detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal D.

Appeal E – Corner of Princes Street and Dale Street

31. The appeal site is located to the front of the footway as it protrudes towards the road at the junction of Dale Street and Princes Street, the latter of which is a narrow passage of single vehicle width while the former is a busy road which is heavily trafficked. The proposed location of the kiosk is adjacent to a bus stand layby and contains a proliferation of other street furniture such as street

lighting, road signs and cycle racks. The site is also within the WHS buffer zone, Castle Street CA and within the setting of numerous Listed Buildings, most notably the Royal Insurance Building which is Grade II*.

32. Alongside an already large accumulation of street furniture, the addition of the kiosk in this location would add visual clutter to the streetscene. Furthermore, the modern appearance of the structure would be visually discordant with the historic nature of the surrounding area and it would not sit comfortably, particularly when viewed against the aforementioned Grade II* Listed Building. Therefore, it would fail to preserve the significance and setting of the WHS, CA and the numerous Listed Buildings in the locality. Given the harm relates to only part of the setting of the WHS, CA and Listed Buildings, there would be less than substantial harm to their significance. While some public benefits would arise as a result of the kiosk, such as the use of a public phone and internet access, these would not outweigh the harm caused upon the setting of the heritage assets, harm which carries great weight. This is contrary to the aims of the Framework.
33. Furthermore, the kiosk would impact upon the safe and efficient operation of the highway. I noted on the site visit the street experienced high levels of pedestrian movement. The footway is narrow in this location, and the addition of a kiosk of this width extending into the path of pedestrians from the front of the footway would impede their ease of movement. The proposal, in combination with the aforementioned elements would have an unacceptably adverse effect on pedestrian permeability in what is a busy area.
34. Similarly, buses pulling out from the stand adjacent would have their views ahead blocked by the kiosk, causing a potential hazard to both drivers of those buses and other motorists as the buses attempt to re-enter the flow of traffic.
35. In conclusion, in relation to appeal E, the proposed kiosk would harm the character and appearance of the WHS, CA and Listed Buildings while also being detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal E.

Appeal F – Old Hall Street

36. The appeal site is located to the front of the footway off Old Hall Street. The proposed, two-sided and freestanding kiosk model would replace the three-sided version currently in situ. The path is wide and contains some limited street furniture, such as a bus stop, streetlighting and signage. The site is within the WHS buffer zone. The wide footways on both sides of the road contribute to an open and spacious local environment despite its city centre location, making a positive contribution as a result.
37. While the kiosk would replace another unit, the existing structure is already somewhat discordant in its surroundings. A taller and wider structure with no permeability would not be an improvement to the environment. Furthermore, the modern appearance of the structure would be visually discordant with the historic nature of the surrounding area and it would not sit comfortably, particularly when considered against the significance of the WHS and its historic value. Therefore, it would fail to preserve the significance and setting of the WHS. Given the harm relates to only part of the setting of the WHS, there would be less than substantial harm to its significance. While some public

benefits would arise as a result of the kiosk, such as the use of a public phone and internet access, these would not outweigh the harm caused upon the setting of the heritage asset, harm which carries great weight. This is contrary to the aims of the Framework.

38. Given the width of the footway and the position of the kiosk to the front lining the road, I would not consider this to be detrimental to pedestrian movement. However, its location at the head of a bus stop already appears to cause a level of obstruction to buses pulling out of this layby. A taller, wider structure would cause further harm and an adverse effect on highway in what is a heavily trafficked area.
39. In conclusion, in relation to appeal F, the proposed kiosk would harm the character and appearance of the WHS while also being detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal F.

Conclusion and recommendation

40. For the reasons given above and having regard to all matters raised, I conclude that appeals A-F should be dismissed due to the harmful impacts from their siting and appearance.

C McDonagh

APPEAL PLANNING OFFICER

Inspector's Decision

41. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeals are dismissed.

S Ashworth

INSPECTOR