



Appeal Decision

Site visit made on 9 March 2020 by L Wilson BA (Hons) MA MRTPI

Decision by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th March 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 Sheffield City Council.
 - The development proposed in each case is described on the application form as the replacement of an existing three sided enclosed telephone kiosk (mark I), with a modern state of the art communications apparatus (mark II) pursuant to Class 16 of the Town and Country Planning (General Permitted Development) Order 2015.
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Appeal A Ref: APP/J4423/W/19/3242866

49 Furnival Gate, Sheffield S1 4QQ

Grid Reference Easting 435293, Grid Reference Northing 386897

- The application Ref 19/01908/TEL, dated 24 May 2019, was refused by notice dated 15 July 2019.
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Appeal B Ref: APP/J4423/W/19/3242865

45-47 Fargate, Sheffield S1 2HD

Grid Reference Easting 435405, Grid Reference Northing 387307

- The application Ref 19/01907/TEL, dated 24 May 2019, was refused by notice dated 16 July 2019.
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Appeal C Ref: APP/J4423/W/19/3242868

13-15 Haymarket, Sheffield S1 2AW

Grid Reference Easting 435727, Grid Reference Northing 387565

- The application Ref 19/01909/TEL, dated 24 May 2019, was refused by notice dated 15 July 2019.
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Appeal D Ref: APP/J4423/W/19/3242869

19 Market Place, City Centre, Sheffield S1 2GH

Grid Reference Easting 435611, Grid Reference Northing 387527

- The application Ref 19/01910/TEL, dated 24 May 2019, was refused by notice dated 15 July 2019.
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Appeal E Ref: APP/J4423/W/19/3242864

75 Broad Lane, Sheffield S1 3PB

Grid Reference Easting 434879, Grid Reference Northing 387479

- The application Ref 19/01905/TEL, dated 24 May 2019, was refused by notice dated 15 July 2019.
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Appeal F Ref: APP/J4423/W/19/3242871

127 Pinstone Street, Sheffield S1 2HL

Grid Reference Easting 435280, Grid Reference Northing 386964

- The application Ref 19/01911/TEL, dated 24 May 2019, was refused by notice dated 17 July 2019.
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Decisions – Appeals A to F

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 F

3. The Appeals relate to proposals by Infocus Public Networks Ltd for the 'replacement of an existing three sided enclosed telephone kiosk (mark I), with a modern state of the art communications apparatus (mark II) pursuant to Class 16 of the Town and Country Planning (General Permitted Development) Order 2015' at six sites in Sheffield. 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 kiosks would have a footprint of approximately 1.34 metres by 0.92m, and they would be 2.63m high. The kiosks would be coloured metal chain grey with a 32" touch screen and would have a projecting canopy. The existing kiosks, which would be removed, have a footprint of approximately 1.47m by 1.26m and are 2.5m high.
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. Collectively, within all the reasons for refusing to grant prior approval, the Council made reference to Policies BE10, BE11, BE16 and S10 of the Sheffield Unitary Development Plan (1998) and Policies CS61 and CS74 of the Sheffield Development Framework: Core Strategy (2009).
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.
8. 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.

Main Issues

9. These are, the effect of the siting and appearance of the proposed development upon:
 - i. the character and appearance of the area (all Appeals), and linked to that, whether the development preserves or enhances the character or appearance of the City Centre Conservation Area (CA) (Appeal B and F); and
 - ii. the safe and efficient operation of the highway (all Appeals).

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

Reasons for the Recommendation

Appeal A - 49 Furnival Gate

Character and Appearance

10. The appeal site is located within the central shopping area, close to the junction with Union Street. The area is characterised by mainly commercial uses and the quality of buildings vary within this section of Furnival Gate. The proposed kiosk would be situated close to modern retail and office buildings. The current kiosk aligns with the existing street furniture which includes street trees, benches, a bin and lampposts.
11. Based on the evidence before me, the existing kiosk has consent. An advertisement features on one side of the existing telephone kiosk which significantly reduces the transparency of the unit. The proposed kiosk would have a smaller footprint than the one it replaces. Thus, the proportions, scale and solid nature of the scheme would not be dissimilar to the existing kiosk. The modern appearance of the proposed unit would not be out of character with the nearby contemporary buildings. The scheme would not result in a dominant nor obtrusive feature due to the appearance of the existing kiosk and character of the area.
12. Taking into account the above factors, the siting and appearance of the scheme would not adversely affect the character and appearance of the area.

Highway

13. The Council are concerned that the scheme would obstruct pedestrian flow. Furthermore, they consider that the design and positioning of the projecting Perspex hood fails to comply with the requirements of British Standard 8300 'Design of an Accessible and Inclusive Built Environment' and as such would be a hazard to blind and partially sighted people. The appellant asserts that the appeal site location has been chosen in accordance with the best practice on footpath accessibility.
14. The existing telephone kiosk has been in situ for a number of years and therefore pedestrian flow has already been impacted. During the time of my site visit, this area of pavement had moderate levels of pedestrian flow. I observed that pedestrians primarily walked adjacent to the buildings rather than the outer section of the pavement where the existing street furniture is located. The proposed kiosk would replace the present unit and would align with the existing street furniture. Given that the current telephone unit has a solid panel and the presence of the existing street furniture, I do not consider that the proposal would adversely affect the flow of pedestrians.
15. I note the accompanying technical specification submitted by the appellant states that the furniture is easily acknowledged by blind and partially sighted pedestrians. However, given the Councils' concerns, I am not convinced that the evidence submitted by the appellant adequately assesses the kiosks impact upon blind and partially sighted people. The appellant has not provided any evidence to suggest that an assessment has been undertaken with regard to the projecting Perspex hood, thus I cannot be sure that the proposed kiosk would not cause a hazard to blind or partially sighted people.
16. Accordingly, although the siting and appearance of the kiosk would not unacceptably impede pedestrian movement, based on the available evidence, it would cause a hazard to blind and partially sighted people. Thus, the scheme would be detrimental to the safe and efficient operation of the highway.

Appeal B - 45-47 Fargate

Character and Appearance

17. The proposed kiosk would be situated within a pedestrianised area, close to Norfolk Row. The appeal site is situated within the central shopping area and the CA. Based on the evidence before me, the CA is largely characterised by Victorian architecture and primarily commercial uses. The ground floor of many of the buildings have been altered over the years and are relatively modern compared to the upper floors.
18. The existing street furniture comprises street trees, benches, bins, bollards and a waymark sign. Advertisement units are also evidence within the wider context of Fargate. The Council highlight that the existing kiosk has not had a functioning telephone for several months and, in line with the GPDO, they will be taking enforcement action to seek its removal.
19. The proposal would undoubtedly be more dominant than the existing kiosk as the present unit is transparent. Nonetheless, even if the current kiosk is removed through enforcement, the proposed solid kiosk would not look out of place within the area due to the modern retail frontages, solid advertisement units and concentration of street furniture within this section of Fargate. The proposed kiosk would not appear obtrusive nor dominant in comparison to its surroundings and therefore it would not harm the character and appearance of the area.
20. In terms of the kiosks impact upon the CA, as already highlighted it would replace an existing unit and would be situated adjacent to modern retail units. The scheme would not unduly interrupt views of the CA, nor would it have any notable impact on how the heritage asset is experienced. Consequently, the proposal would have a neutral effect on the heritage asset and would preserve the character and appearance of the CA.

Highway

21. The Council are concerned that the scheme would obstruct pedestrian flow. Additionally, they consider that the design and positioning of the projecting Perspex hood fails to comply with the requirements of British Standard 8300 'Design of an Accessible and Inclusive Built Environment' and as such would be a hazard to blind and partially sighted people. The appellant asserts that the appeal site location has been chosen in accordance with the best practice on footpath accessibility.
22. 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. The existing telephone kiosk has been in situ for a number of years and has already impacted the flow of pedestrians. Similarly, the adjacent bollards, street trees, bins and benches have also impacted pedestrian movement within this section of Fargate. Although the replacement kiosk would be solid there is no convincing evidence before me which demonstrates that the scheme would unacceptably impede pedestrian movement. There would be adequate distance to the side of the kiosk for pedestrians to navigate around.
23. I note the accompanying technical specification submitted by the appellant states that the furniture is easily acknowledged by blind and partially sighted pedestrians. However, given the Councils' concerns, I am not convinced that the appellants' submission adequately assesses the kiosks impact upon blind and partially sighted people. The appellants submission does not address the impact of the projecting Perspex hood. Thus, I cannot be sure that the unit would not cause a hazard to blind or partially sighted people.

24. Accordingly, based on the evidence submitted, the siting and appearance of the scheme would be detrimental to the safe and efficient operation of the highway.

Appeal C - 13-15 Haymarket

Character and Appearance

25. The appeal site is located within the central shopping area, close to the junction with King Street. The quality of buildings within Haymarket vary; the upper floors generally contribute more positively to the character of the area. In addition to the existing kiosk, within this section of the pavement, is also telephone boxes, an advertisement unit and lampposts.
26. The proposed kiosk would align with the existing street furniture. The current telephone kiosk features an advertisement on one side. The Council asserts that the current kiosk has not been in operation for a number of months and therefore, in line with the GPDO, they will be taking enforcement action to seek its removal. The solid appearance and proportions of the proposed unit would not be wholly dissimilar to the existing telephone kiosk, the advertisement unit or the telephone boxes which also have advertisements. On the opposite side of Haymarket there are further examples of modern, solid advertisement and kiosk units. Consequently, even if the existing kiosk is removed through enforcement action, the proposed modern, solid kiosk would not look out of place within this section of Haymarket. For all of those reasons, the scheme would not be visually intrusive and would not harm the character and appearance of the area.

Highway

27. The Council consider that pedestrian flow would be unduly impacted due to the kiosks' solid nature. Additionally, the Council are concerned that the design and positioning of the projecting Perspex hood fails to comply with the requirements of British Standard 8300 'Design of an Accessible and Inclusive Built Environment' and as such would be a hazard to blind and partially sighted people. The appellant states that the appeal site location has been chosen in accordance with the best practice on footpath accessibility.
28. During the time of my site visit, this area of Haymarket had high levels of pedestrian flow. I have seen nothing to suggest that my observations were untypical. The existing kiosk has clearly been in situ for a number of years and has impacted pedestrian flow. Even if the current kiosk is removed, I am not convinced that pedestrian flow would be unduly impacted due to the siting of the nearby telephone boxes and advertisement unit. I observed on my site visit that pedestrians generally walk adjacent to the buildings rather than towards the outer section of the pavement. Thus, based on the evidence submitted, the proposed scheme would not impede pedestrian flows to an unacceptable degree.
29. I note the accompanying technical specification submitted by the appellant states that the furniture is easily acknowledged by blind and partially sighted pedestrians. However, given the Councils' concerns, I am not convinced that the evidence provided by the appellant adequately assesses the kiosks impact upon blind and partially sighted people. The appellants submission does not address the impact of the projecting Perspex hood. Thus, I cannot be sure that the kiosk would not cause a hazard to blind or partially sighted people.
30. Accordingly, based on the evidence submitted, the siting and appearance of the kiosk would be detrimental to the safe and efficient operation of the highway.

Appeal D - 19 Market Place

Character and Appearance

31. The appeal site is located within a wide section of pavement between Market Place and Angel Street in the central shopping area. Street furniture is limited within this section of Market Place. Consequently, due to the width of the pavement and lack of street furniture, there is a sense of openness and spaciousness. In the vicinity of the appeal site are lampposts and in the wider area there are street trees and advertisement units.
32. Based on the evidence before me, the existing kiosk has consent. The current unit has an advertisement on one side which results in a largely solid structure. In comparison to the existing unit, the scheme would not be unduly prominent in the street scene. The proportions of the unit would not be wholly dissimilar to the existing telephone kiosk. Similarly, the solid nature of the proposal would be comparable to the present kiosk and nearby modern advertisement units. For these reasons, the scheme would not harm the character and appearance of the area.

Highway

33. The Council consider that the kiosk is unlikely to have a significant impact on pedestrian flow. However, they are concerned that the design and positioning of the projecting Perspex hood fails to comply with the requirements of British Standard 8300 'Design of an Accessible and Inclusive Built Environment' and as such would be a hazard to blind and partially sighted people.
34. I note the accompanying technical specification submitted by the appellant states that the furniture is easily acknowledged by blind and partially sighted pedestrians. However, given the Councils' concerns, I am not convinced that the evidence submitted by the appellant adequately assesses the kiosks impact upon blind and partially sighted people. The appellant has not provided any evidence to suggest that an assessment has been undertaken with regard to the projecting Perspex hood. Consequently, I cannot be sure that the kiosk would not cause a hazard to blind or partially sighted people.
35. Accordingly, based on the evidence submitted, the siting and appearance of the kiosk would be detrimental to the safe and efficient operation of the highway.

Appeal E - 75 Broad Lane

Character and Appearance

36. The appeal site is opposite the Well Meadow Conservation Area. The proposed kiosk would be situated in close proximity to the NHS health centre and the T-junction with Rockingham Street. There are a mix of retail, student accommodation, residential and business uses in the area. Within this section of Broad Lane street furniture includes street trees, a waymark sign and a street cabinet. Based on the evidence before me, the existing unit has consent. The present kiosk has an advertisement on one side which largely obscures views through the unit.
37. Whilst the proposed kiosk would not align with the other street furniture it would be situated within the same location as the existing telephone unit. The proposed scheme would not be wholly dissimilar to the existing telephone kiosk in terms of its proportions, scale, siting and solid nature. Although the proposed structure would be more modern than the present unit, a number of the surrounding buildings are contemporary and therefore the replacement kiosk would not look out of place.

38. The Council assert that the kiosk would detract from the footway improvement works along the frontage of the health centre. It is not clear from the evidence before me how this area has been improved. Nonetheless, the kiosk would replace an existing telephone unit. There is a clear gap between the health centre and the kiosk due to the row of street trees. The proposal would be situated to the outer edge of the pavement, on a section of pavement where it widens, adjacent to the road. I am not convinced that the kiosk would unduly detract from the improvement works. For these reasons, the scheme would not harm the character and appearance of the area.
39. The Council raises no concerns in respect of the effect of the kiosk on the setting of the Well Meadow Conservation Area, and I have no reasons to consider otherwise. I am satisfied that the development would have a neutral impact on the setting of the conservation area and the development would not cause harm to the significance of the designated heritage asset.

Highway

40. The Council consider that the proposed kiosk is unlikely to have any significant impact on pedestrian flow. However, they are concerned that the design and positioning of the projecting Perspex hood fails to comply with the requirements of British Standard 8300 'Design of an Accessible and Inclusive Built Environment' and as such would be a hazard to blind and partially sighted people.
41. I note the accompanying technical specification submitted by the appellant states that the furniture is easily acknowledged by blind and partially sighted pedestrians. However, given the Councils' concerns, I am not convinced that the evidence submitted by the appellant adequately assesses the kiosks impact upon blind and partially sighted people. The appellant has not provided any evidence to suggest that an assessment has been undertaken with regard to the projecting Perspex hood. Consequently, I cannot be sure that the kiosk would not cause a hazard to blind or partially sighted people.
42. Accordingly, the siting and appearance of the scheme would be detrimental to the safe and efficient operation of the highway.

Appeal F - 127 Pinstone Street

Character and Appearance

43. The appeal site is located within the central shopping area and is on the edge of the CA. The existing kiosk aligns with the street furniture which includes a bus shelter, lampposts and an advertisement unit. At the time of my site visit there was substantial building work taking place on the opposite side of Pinstone Street.
44. Based on the evidence before me, the CA is largely characterised by late 19th and 20th century architecture. As highlighted by the Council, this section of the CA is currently being enhanced through the recent completion of Governor House and associated external works to the other side of Pinstone Street.
45. The scheme would have a smaller footprint than the existing telephone kiosk. At the time of my site visit the current unit had some posters attached to the sides but it was largely transparent. Although the proposed kiosk would be solid, it would not look out of place within this section of Pinstone Street given the nearby modern advertisement unit and contemporary buildings in the vicinity. Similarly, the proportions of the unit would not be wholly dissimilar to the existing telephone kiosk. The scheme would not

appear incongruous nor unduly prominent within the context of its surroundings. For these reasons, the scheme would not harm the character and appearance of the area.

46. The proposal would not unduly interrupt views of the CA, nor would it have any notable impact on how the heritage asset is experienced given the existing telephone kiosk and nearby modern features. Consequently, the proposal would have a neutral effect on the heritage asset and would preserve the character and appearance of the CA.

Highway

47. The Council consider that the scheme is unlikely to have any significant impact upon pedestrian flow. However, they are concerned that the design and positioning of the projecting Perspex hood fails to comply with the requirements of British Standard 8300 'Design of an Accessible and Inclusive Built Environment' and as such would be a hazard to blind and partially sighted people.
48. I note the accompanying technical specification submitted by the appellant states that the furniture is easily acknowledged by blind and partially sighted pedestrians. However, given the Councils' concerns, I am not convinced that the evidence submitted by the appellant adequately assesses the kiosks impact upon blind and partially sighted people. The appellant has not provided any evidence to suggest that an assessment has been undertaken with regard to the projecting Perspex hood. Consequently, I cannot be sure that the kiosk would not cause a hazard to blind or partially sighted people.
49. Accordingly, the siting and appearance of the scheme would be detrimental to the safe and efficient operation of the highway.

Conclusions and Recommendations

50. In all cases, I have found that harm would not arise to the character and appearance of the area and, where relevant, to general pedestrian movement. That lack of harm would not mitigate or outweigh the harm I have identified for each appeal.
51. For the reasons given above, I recommend that all of the appeals should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

52. 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.

K Taylor

INSPECTOR