



Appeal Decisions

Site visit made on 27 January 2020 by Hilary Senior BA(Hons) MCD MRTPI

by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21st May 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 appeals are made by Mr Nathan Still (Infocus Public Networks Limited) against the decision of Liverpool City Council.
 - The development proposed is Installation of an electronic communications apparatus comprising a telephone kiosk.
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Appeal A Ref: APP/Z4310/W/19/3236612

OS 16 North John Street, Liverpool, L2 4SH

- The application Ref 19/PT/1356, dated 23 May 2019, was refused by notice dated 11 July 2019.
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Appeal B Ref: APP/Z4310/W/19/3236618

OS Adelphi Hotel, Ranelagh Place, Liverpool, L3 5UL

- The application Ref 19/PT/1343, dated 23 May 2019, was refused by notice dated 11 July 2019.
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Appeal C Ref: APP/Z4310/W/19/3236614

OS 56-58 Lord St, Liverpool, L2 1TD

- The application Ref 19/PT/1357, dated 23 May 2019, was refused by notice dated 11 July 2019.
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Appeal D Ref: APP/Z4310/W/19/3236621

OS 47-53 North John Street, Liverpool, L2 6PB

- The application Ref 19/PT/1351, dated 23 May 2019, was refused by notice dated 11 July 2019.
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Appeal E Ref: APP/Z4310/W/19/3236620

OS Debenhams, Lord Street, Liverpool, L2 1TD

- The application Ref 19/PT/1349, dated 23 May 2019, was refused by notice dated 11 July 2019.
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Appeal F Ref: APP/Z4310/W/19/3236624
OS McDonalds, Lord Street, Liverpool, L2 1TL

- The application Ref 19/PT/1338, dated 23 May 2019, was refused by notice dated 11 July 2019.
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Decisions

1. Appeals A- F 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

3. 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.
4. Whilst the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 amends the (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'.
5. 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 other than in respect of heritage assets where the NPPF advises at Paragraph 196, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal."
6. 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.

7. 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.
8. 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.
9. Appeal site **A** is located within the Liverpool Maritime Mercantile City World Heritage Site (WHS) and appeal sites **B-F** are located within the WHS Buffer Zone. Furthermore, appeals **A-F** are located within the setting of Listed Buildings and appeal **A** is 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.
10. There is an inconsistency in the precise address details in appeals A, B and D in the various appeal documents. Nevertheless, the location of each proposal is clear from the site plans and I have determined the case on the basis of the plans before me. I have corrected the address of the site, where appropriate, in the headings.

Main Issues

11. The main issues are:

- For appeal A, whether or not approval should be given in respect of the siting and appearance of the proposed development, with particular regard to whether it would preserve or enhance the character or appearance of the Liverpool Maritime Mercantile City World Heritage Site (WHS), the Castle Street Conservation Area (CA), or preserve the setting of listed buildings, and its effect upon the safe and efficient operation of the highway, and
- For appeals B, C, D, E and F, whether or not approval should be given in respect of the siting and appearance of the proposed development, with particular regard to whether it would preserve or enhance the character or appearance of the WHS Buffer Zone, or preserve the setting of listed buildings, and its effect upon the safe and efficient operation of the highway.

Reasons

Appeal A - OS 16 North John Street, Liverpool, L2 4SH

12. The kiosk would be located within the WHS zone, the CA and within the setting of the Grade II Listed Ventilation Station to the Mersey Road Tunnel, Regina House, Melbourne Buildings and 18-22 North John Street. The 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.
13. The appeal site is at the junction of Victoria Street and North John Street on the pavement outside a public house. There is already street furniture in this location including traffic lights with a pedestrian crossing, cycle stands, traffic signs and lighting columns. However, the existing street furniture is either low level or narrow slender structure allowing views along the street of the surrounding imposing buildings. A kiosk, due to its height and width would appear incongruous, disrupt this view and add to the clutter in the area.
14. Given the harm relates to only part of the WHS, CA and setting of the Listed Buildings, the harm to the significance would be less than substantial. In these circumstances paragraph 134 of the Framework states that the harm should be weighed against the public benefits of the proposal. 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 CA, setting of the Listed Buildings and WHS; harm which carries great weight.
15. The location of the proposed kiosk at a traffic light controlled junction with a pedestrian crossing which has a high pedestrian footfall, would interrupt sightlines of vehicles using the junction which would increase the risk to pedestrians in this location. In addition, it would cause a narrowing of the pavement restricting pedestrian flow in an area of high footfall to the detriment of highway safety.
16. In conclusion, in relation to appeal A, the proposed kiosk would harm the character and appearance of the WHS, CA and the setting of nearby 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 A.

Appeal B - OS Adelphi Hotel, Ranelagh Place Liverpool, L3 5UL

17. The appeal site is located within a wide and pedestrian plaza, outside the Grade II listed Adelphi Hotel. This area is an important pedestrian thoroughfare from Liverpool Lime Street Station. Along the roadway edge are a series of bicycle racks with cycles for hire and road signage along with a litter bin. Aside from these elements of street furniture the area is open and wide with a stepped and treed area in the centre, with an uncluttered character.

18. The kiosk would be located within the WHS buffer zone, and within the setting of the Grade II Listed Adelphi Hotel and Lewis's Department Store and Grade II* The Vine PH.
19. The views along Lime Street towards St Georges Hall and along Renshaw Street to St Luke's Church are defined in the SPD as significant local views important to aid the legibility and understanding of the City. Although the kiosk is limited in size, it would non the less be harmful to this view. This in addition to the harm to the setting of the listed buildings
20. I note the conclusion made by an inspector¹ that a kiosk in a similar location would have an acceptable impact on the character and appearance of the area. However, the proposal was for the removal of two kiosks and their replacement with another of differing design to the current appeal. For these reasons I consider that this proposal is sufficiently different to warrant a different conclusion in this respect.
21. Due to the height, width, utilitarian design and isolated location, the kiosk would be a prominent intrusion in the street scene and would harm the character and appearance of the area by the addition of clutter in an area where there is little street furniture of this size.
22. The area has a high pedestrian footfall, where a number of streets intersect with direct access to Lime Street Station. There are pedestrian crossings and traffic light controlled junctions in the vicinity of the proposal. The addition of the proposed kiosk would cause a barrier to the existing pedestrian desire lines across the plaza. It would also affect the views of drivers negotiating the junctions in the vicinity of the proposal, to the detriment of pedestrian safety.
23. In conclusion, in relation to appeal B, 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 B

Appeal C - OS 56-58 Lord St, Liverpool, L2 1TD

24. The appeal site is located within the pedestrianised retail area of central Liverpool, within close proximity of 81-89 Lord Street, a Grade II listed building and within the WHS. The pedestrianised area is wide, with street furniture in the form of low-level planters housing soft landscaping and litter bins set out in a linear arrangement. There are no existing kiosks on this side of the street, in the vicinity of the proposal.
25. The setting of the Listed Buildings has changed over time due to the modernised shopfronts and pedestrianised street changing the character and appearance of the area. Accordingly, the kiosk would make a neutral contribution to the significance of the heritage asset. On that basis the installation of the kiosk would not cause further harm to the setting or significance of the listed buildings.
26. Even so the proposal would add a tall and wide element of street furniture that would be incongruous in the street scene. There is a rhythm to the existing low-level street furniture, including the planters. The kiosk would disrupt this

¹ APP/Z4310/W/18/3205040

rhythm as it would be sited close to the existing low-level street furniture. Due to the footprint and height of the proposal it would be more noticeable than the existing street furniture and therefore be visually intrusive in the street scene.

27. Whilst I have found that the proposal would harm the character and appearance of the area, there is no evidence before me that it would impede pedestrian movements due to the width of the pedestrianised street and the presence of the existing street furniture. I therefore consider that the proposal would not harm the safe and efficient operation of the highway.
28. The siting and appearance of the proposed kiosk would harm the character and appearance of the area and this harm justifies the dismissal of appeal C.

Appeal D - OS 47-53 North John Street, Liverpool, L2 6PB

29. The appeal site is located on the pavement, close to the junction with the pedestrianised commercial area on Lord Street and is an area with high pedestrian footfall. It is close to a traffic light controlled pedestrian crossing. There is little street furniture in the vicinity of the site so has an open, uncluttered character.
30. The kiosk would be located within the WHS buffer zone, and within the setting of the Grade II Listed Clarence Building Marldon Chambers, Central Buildings and Harrington Chambers.
31. The setting of the Listed Buildings has changed over time due to the modernised shopfronts and pedestrianised street changing the character and appearance of the area. Accordingly, the kiosk would make a neutral contribution to the significance of the heritage asset. On that basis the installation of the kiosk would not cause further harm to the setting or significance of the listed buildings.
32. Even so, due to its height, footprint and utilitarian appearance the addition of a kiosk in this location, which is presently devoid of such street furniture, would harm the character and appearance of the area.
33. The kiosk would cause a narrowing of the pavement space available for pedestrians which due to the high level of pedestrian footfall and the presence of the traffic light controlled pedestrian crossing and as such would adversely affect pedestrian permeability. It would also affect the views of drivers negotiating the junctions in the vicinity of the proposal, to the detriment of pedestrian safety.
34. In conclusion, in relation to appeal D, the proposed kiosk would harm the character and appearance of the area 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 - OS Debenhams, Lord Street, Liverpool, L2 1TD

35. The appeal site is at the junction of North John Street and Lord Street, in a wide-open space at the start of the pedestrianised commercial centre of Liverpool. It would be outside the entrance to the Debenhams Department Store.

36. The kiosk would be located within the WHS buffer zone, and within the setting of the Grade II Listed Clarence Building Marldon Chambers, Central Buildings and Harrington Chambers.
37. The setting of the Listed Buildings has changed over time due to the modernised shopfronts and pedestrianised street changing the character and appearance of the area. Accordingly, the kiosk would make a neutral contribution to the significance of the heritage asset. On that basis the installation of the kiosk would not cause further harm to the setting or significance of the listed buildings.
38. Even so, the due to the height, width, utilitarian design and location, the kiosk would be a prominent intrusion in the streetscene and would harm the character and appearance of the area by the addition of clutter in an area where there is little street furniture of this size.
39. At the time of the site visit, vehicles were parked in the vicinity of the proposal making deliveries to the local retail premises causing obstructions to pedestrian flow. Whilst I acknowledge that this was a snapshot in time, and even if this had not been the case, the addition of a kiosk would further impede pedestrian flow in an area with a very high pedestrian footfall to the detriment of the safe and efficient operation of the highway.
40. In conclusion, in relation to appeal E, the proposed kiosk would harm the character and appearance of the area 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 - OS McDonalds, Lord Street, Liverpool, L2 1TL

41. The appeal site is at the junction of the pedestrianised Lord Street, Paradise Street, Church Street and Whitechapel in the central commercial area of Liverpool City Centre. It is an important junction to four very busy commercial streets. This junction creates a large wide, open and uncluttered communal space.
42. The kiosk would be located within the WHS buffer zone, and within the setting of the Grade II Listed 89-91 Lord Street.
43. The setting of the Listed Buildings has changed over time due to the modernised shopfronts and pedestrianised street changing the character and appearance of the area. Accordingly, the kiosk would make a neutral contribution to the significance of the heritage asset. On that basis the installation of the kiosk would not cause further harm to the setting or significance of the listed buildings.
44. Even so, the due to the height, width, utilitarian design and location, the kiosk would be a prominent intrusion in the street scene and would harm the character and appearance of the area by the addition of clutter in an area where there is little street furniture of this size.
45. Due to the orientation of the pedestrianised streets, the design of the paving, and the lack of other substantial street furniture, I noted that the proposed location of the kiosk is on a pedestrian 'desire line' and was a particularly well used area of footway. Although the kiosk would be limited in footprint it would

impede pedestrian flow in an area of very high footfall to the detriment of the safe and efficient operation of the highway.

46. In conclusion, in relation to appeal F, the proposed kiosk would harm the character and appearance of the area 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

47. For the reasons given above and having regard to all other matters raised, I recommend that appeals A-F are dismissed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

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

Susan Ashworth

INSPECTOR