



Appeal Decision

Site visit made on 26 May 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2020

Appeal Ref: APP/N4720/W/20/3244972

Outside Bonmarche, 16-17 Kirkgate, Leeds LS1 6BY

- The appeal is 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 appeal is made by Mr Nathan Still (Infocus Public Networks Ltd) against the decision of Leeds City Council.
 - The application Ref 19/03222/DTM, dated 20 May 2019, was refused by notice dated 16 July 2019.
 - The development proposed is installation of an electronic communications apparatus comprising a telephone kiosk.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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 development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. Therefore, I have had regard to its policies and those of the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are the effects of the siting and appearance of the proposal on:
 - i) The character and appearance of the area; and
 - ii) The pedestrian environment.

Reasons

Character and appearance

5. Kirkgate is a relatively narrow pedestrianised street enclosed by continuous tall buildings with a mix of contemporary and traditional facades above ground

- floor retail and commercial frontages. The street is uniformly paved, with footways to either side separated from the carriageway by well-spaced street furniture including seating, bollards, cycle stands and lampposts. There are additionally a number of street trees. The appeal site is on the boundary of the Leeds City Centre Conservation Area (the CA) which covers an extensive area of the commercial city centre and includes both modern and historic buildings.
6. The Communications Hub (the kiosk) would be a tall and solid feature in a contemporary grey finish. Although it would be similar in scale to kiosks and information panels elsewhere in the city centre, it would not relate well to the low level and coherent scheme of street furniture that characterises this locality. It would contribute to the appearance of a cluttered street scene and it would not make a positive contribution to local character or distinctiveness.
 7. Where proposals affect Conservation Areas, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in the exercise of any function under the Planning Acts, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In this case, the kiosk would not relate well to the public realm or to the nearby buildings within the CA. It would be a discordant feature that would not preserve or enhance the CA. However, it would be modest in the context of the CA as a whole and consequently it would result in less than substantial harm to the designated heritage asset.
 8. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 directs decision makers, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The statutory duty does not apply to prior approval applications, for which planning permission is granted by Article 3(1) of the GPDO. Nevertheless, when assessing the siting and appearance of proposed development, it is necessary to consider the impact on the setting of any listed building.
 9. In this case, the kiosk would be visible in views looking along Kirkgate towards the Leeds City Markets and the more distant Parish Church of St Peter, both of which are Grade I listed buildings. The Market building is a substantially large 4 storey stone building with ornamental architectural detail to elevations and the roof scape, including mansard roofs, a steeple and towers with domed cupolas. The Church is also a substantially large stone building with a slate roof. It is laid out in cruciform plan with a prominent tower, in a Gothic style with significant architectural detailing.
 10. Although distant from the listed buildings, the overtly modern kiosk would be prominent, and it would detract from the views of the listed buildings. Consequently, it would be detrimental to the setting of the listed buildings. Nevertheless, given its modest scale, the kiosk would result in less than substantial harm to the setting of the heritage assets.
 11. The Framework advises that less than substantial harm to the significance of designated heritage assets should be weighed against the public benefits of the proposal. In this regard, the kiosk would harm both the significance of the CA and the setting of listed buildings. Weighed against this would be the public benefit deriving from the kiosk's contribution to the public telecommunications network in the area and its accessibility by disabled persons. Given the great

weight that must be afforded to heritage assets' conservation, I am not persuaded that the public benefits would be sufficient to outweigh the harm to the CA and the setting of the listed buildings.

12. Therefore, the proposal would result in harm to the character and appearance of the area, including the street scene, the CA and the setting of listed buildings. Consequently, and although they are not determinative, the proposal would conflict with Policies GP5 of the Leeds Unitary Development Plan Review 2006 (the UDP) and P10 and P11 of the Leeds City Council Core Strategy Adopted November 2014. These require that development, among other things, is of good design, that it contributes positively to place making and conserves and enhances the historic environment. It would also conflict with the policies in the Framework that relate to listed buildings.

The pedestrian environment

13. I visited the area during the coronavirus pandemic lockdown, at a time when restrictions were being eased but non-essential retail premises were not fully open. Therefore, footfall in the city centre is likely to have been considerably lower than would be expected under normal circumstances. Nevertheless, there was a reasonable level of activity in the area and I was able to observe patterns of pedestrian movement and behaviour.
14. The kiosk would be located in the footway close to items of street furniture including a seating area. The kiosk would not directly obstruct access to the adjacent commercial frontages and retail premises. However, it would reduce the width of the footway and it would be an additional obstacle that would result in physical and visual disruption to the free movement of pedestrians. It would contribute to street clutter, impede pedestrian desire lines and increase the likelihood of congestion and conflict in and around the footway.
15. Therefore, by virtue of its size and siting, the kiosk would obstruct the footway and it would be detrimental to the pedestrian environment, with particular regard to convenience and safety. Therefore, and although not determinative, it would conflict with the aims of Policy T2 of the UDP that relate to safe and secure access for pedestrians, cyclists and people with impaired mobility. It would also conflict with policies in the Framework that relate to safe and accessible places and high quality public space that encourages active and continual use.

Conclusion

16. For the reasons set out above, I conclude that, due to its siting and appearance, the proposed kiosk would harm the character and appearance of the area including the CA and the setting of listed buildings. It would also harm the pedestrian environment. The appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR