



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/20/3244969

Outside House of Fraser 140-142 Briggate, Leeds LS1 6LS

- 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 19/03219/DTM, dated 20 May 2019, was refused by notice dated 17 July 2019.
- The development proposed is the Installation of a Communication Hub on the Highway by an electronic communication code operator.

Decision

1. The appeal is dismissed.

Procedural Matters

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. Consequently, whilst the appellant has referred to the purported benefits of the proposal, I have not taken these matters into account other than in respect of designated heritage assets.
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 the policies of the development plan and 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 effect of the siting and appearance of the proposal on:
 - i) The character and appearance of the area, including designated heritage assets; and
 - ii) The pedestrian environment.

Reasons

Character and appearance

5. Briggate is a wide pedestrianised street flanked on both sides by tall commercial buildings. The part of the street that includes the appeal site is characteristically contemporary in appearance. However, there are a number of historically and architecturally notable building facades including listed building such as the adjacent Nos 133-137. The street is uniformly paved and there is a coherent scheme of street furniture including bollards, cycle stands, litter bins and lamp-posts interspersed with repeating matching metal benches set at an angle to the retail frontages.
6. The proposed Communications Hub (the kiosk) would be roughly 3m from the front elevations of the nearest buildings, Nos 140-142 and Nos 133-137. The kiosk would be over 2.6m tall and 1.3m wide, and it would be predominantly metal chain grey in colour. While it would be similar in scale to information panels elsewhere in the city centre, the kiosk would be out of scale and not in keeping with the design or spacing of the street furniture that characterises the public realm in this area. Therefore, it would not relate well to the street furniture. It would not respect local character or distinctiveness and it would not make a positive contribution to the area.
7. Nos 133-137 is a former post office exchange and Grade II listed building. 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.
8. The listed building is a 5 storey building with an ornate brick, terracotta and tiled façade above the modern ground floor commercial frontage. The historic façade includes round headed windows and canted bays, columns and relief moulding, with third floor windows set back behind arches. The listed building is substantially large and it is conspicuous by virtue of the marked contrast between its elaborate decorative frontage and the more minimalist contemporary buildings to either side. Consequently, it is a prominent feature that makes a positive contribution to the street scene.
9. The kiosk would primarily be seen in the context of the ground floor retail frontage and it would not obscure views of the historic façade above. Nevertheless, the kiosk would be a discordant feature and it would contribute to visual clutter in close proximity to the listed building. Therefore, it would detract from the setting of the listed building. However, given its modest scale, the kiosk would result in less than substantial harm to the setting of the heritage asset.
10. 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 part of Briggate between The Headrow and Boar Lane that includes the appeal site is not within the Leeds City Centre Conservation Area (the CA). By virtue of its modest size, the scale of the surrounding built environment and the distance to the boundary of the CA, the kiosk would not be prominent in key views in or out of the CA. It would not be significantly detrimental to the setting of the CA. Consequently, it would not result in harm to the character or appearance of the CA.

11. The Framework advises that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal. The kiosk would contribute to the public telecommunications network in the area and it would be accessible by disabled persons. Nevertheless, I am required to give great weight to the asset's conservation. In this regard, it has not been demonstrated that the public benefits would be significant or that they would outweigh the harm to the setting of the listed building.
12. Therefore, the proposal would result in harm to the street scene and it would harm the setting of the nearby Grade II listed building. 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. Briggate is a wide street with footways and street furniture to either side. The central part of the street is open and unobstructed, allowing unrestricted pedestrian movements. However, pedestrians will not be spread evenly through the area. There will inevitably be higher levels of activity closer to retail frontages and doorways, and around seating and other street furniture.
14. I visited the area during the coronavirus pandemic lockdown. At that time, 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.
15. The low level and widely spaced street furniture does not obstruct visibility or prevent pedestrians from moving freely in and around the footway. In contrast, the kiosk would be a tall and solid feature that would obstruct views for pedestrians and wheelchair and mobility scooter users and it would reduce the width of the gaps between items of street furniture. Furthermore, under normal circumstances, there would be additional obstructions in the street including street vendors, advertising boards and secured bicycles. Therefore, the kiosk would contribute to visual and physical clutter, the cumulative effects of which would impede the free flow of pedestrians, cause congestion and increase the likelihood of conflict as people step round the solid tall structure.
16. Therefore, by virtue of its size and siting and cumulative effect, the kiosk would obstruct the footway and it would be detrimental to the pedestrian environment, with particularly regard to convenience and safety. 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.

Conclusions

17. 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 and it would harm the pedestrian environment. The appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR