
Appeal Decision

Site visit made on 6 February 2018

by Andrew McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2018

Appeal Ref: APP/M4510/W/17/3188840

Pavement outside 1 Cathedral Square, Mosley Street, Newcastle-upon-Tyne, NE1 1EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Nathan Still on behalf of Infocus Public Networks Limited against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref 2017/1134/01/NOT, dated 27 July 2017, was refused by notice dated 18 September 2017.
 - The development proposed is installation of an electronic communications apparatus.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. As an electronic communications code operator, the appellant benefits from deemed planning permission for the proposal under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) as amended, subject to prior approval by the local planning authority of siting and appearance. The provisions of the GPDO require the local planning authority to assess the proposed development solely with regard to siting and appearance, taking into account any representations received. The appellant applied to the Council on that basis.
3. As the principle of development is established, considerations such as need for the proposed kiosk are not relevant matters. The Council determined that prior approval was required and refused. Accordingly, the main issue is as below.
4. I have considered the submitted details before me. As a result, I have described the location of the development as the Pavement outside 1 Cathedral Square, Mosley Street, rather than as shown on the application form for reasons of accuracy and clarity.

Main Issue

5. The main issue is the effect of the siting and appearance of the development on the character and appearance of the surrounding area, including the Central Conservation Area (CCA) and setting of nearby listed buildings.

Reasons

6. The proposed communications kiosk would be sited on the pavement to the front of 1 Cathedral Square and would be located close to a number of listed

buildings including Collingwood House and Scottish Provident House (both Grade II), a statue of Queen Victoria (Grade II*) and The Cathedral of St Nicholas (Grade I). The listed buildings, and views of them from the surrounding area, have high historical, aesthetic and communal value and they are therefore of high significance. The local area is characterised as predominantly commercial.

7. The development would be positioned in a prominent location close to the kerbside of the public highway. As a result, it would be highly visible in several views of the surrounding listed buildings. There is street furniture close to the proposed site comprising bollards, a litter bin, cycle racks and a cash machine kiosk with the latter two elements being predominantly grey in colour.
8. The proposed kiosk would also be located within the CCA. Accordingly, I have a statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area and the setting of a listed building or buildings, as designated heritage assets. This is a consideration that the Courts have held to be of considerable importance and weight.
9. The appellant argues that the proposed kiosk would be positioned in such a location as to leave the public footpath sufficiently unobstructed for a width of at least 2 metres. Furthermore, although there is other street furniture nearby, it is argued that the kiosk would relate well to it and would not result in any unacceptable clutter within the street scene.
10. During my site visit, I could see that although some street furniture exists close to the proposed site, the surrounding public highway and street scene has little such street furniture or clutter. This is particularly the case within the area around the Cathedral opposite the proposed site. As such, I find that the installation of the proposed kiosk in the location identified would have a significant impact on the street scene and would be physically and visually intrusive in this location.
11. In addition, I note that the proposed kiosk would be a significant size and of an incongruous design in its context. Moreover, the frame of the kiosk would be finished in jet black. This would contribute to the kiosk having an inconsistent appearance with the existing cycle racks and cash machine kiosk to the east of the proposed site being grey and would result in a harmful impact on the overall appearance of the street scene. Furthermore, the kiosk would increase the level of clutter in the street scene, impact on views along Collingwood Street and Mosley Street and diminish the setting and views of nearby listed buildings.
12. Whilst I appreciate its open sided design, the use of glazed panels and its simple and functional form, the kiosk would be readily apparent in views along Mosley Street and across Cathedral Square. Notwithstanding the elements of street furniture I have identified, due to the relatively limited amount of such features in the surrounding area, I find that the introduction of the kiosk at the proposed point would significantly contribute towards the overall impact of street clutter around the Grade I listed Cathedral and the other nearby listed buildings.
13. As a result, the installation of the kiosk would diminish the quality, character and appearance of the surrounding area. Although the harm to the identified

designated heritage assets would be less than substantial, I find that it would be significant. Therefore, in my view, the kiosk proposed would neither preserve nor enhance the character or appearance of the CCA or the setting of the nearby listed buildings. As such, I give significant weight to these matters.

14. The kiosk would utilise solar panels and would be designed to provide easy access for wheelchair and mobility scooter users. Furthermore, the National Planning Policy Framework (the Framework) states that local planning authorities should not impose a ban on telecommunications development in certain areas, nor seek to prevent competition between different operators or question need for telecommunications systems. The Framework also states that high quality communications infrastructure is essential for sustainable economic growth. In this regard, the proposed kiosk would bring economic benefits and provide competition and choice for the public. Nonetheless, taking account of the above, I find that these benefits, when considered individually and cumulatively, would not outweigh or prevent the significant harm I have identified.
15. Therefore, I conclude that the siting and appearance of the proposed kiosk would have a significant detrimental impact on the character and appearance of the surrounding area, including the CCA and the setting of nearby listed buildings.

Conclusion

16. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR