

MAXIMUS NETWORKS

Regeneration Planning and Development Management
London Borough of Camden
5 Pancras Square
c/o Camden Town Hall
Judd Street
WC1H 9JE

06/08/2018

Dear Sir/Madam

**Application for Prior Approval
Installation of Electronic Communications Apparatus on the Highway by an Electronic
Communication Code Operator**

**The Town and Country Planning (General Permitted Development) (England) Order 2015
(As Amended), Part 16 of Schedule 2 ('the GPDO') and the Communications Act 2003,
section 106 as amended by the Digital Economy Act 2017**

Introduction

In accordance with the GPDO, determination is sought on whether the following planned public call box requires your approval as to the siting and appearance of the development:

Proposed location: 167-169 Shaftesbury Avenue, WC2H 8AN, Camden, E: 530037, N: 181206

Description: 1 x public call box (as detailed within this letter and its enclosures)

Please note that we have instructed Metropolis Planning & Design as our agent in respect of this application. Their contact details are contained within the application form enclosed with this letter. Please ensure that all correspondence on this matter is addressed to Metropolis Planning and Design as our agent.

The Applicant

Maximus Networks Ltd ('the Company'/'Maximus') is an electronic communications code operator which has been granted powers by the UK's communications regulator (Ofcom) under the electronic communications code (the 'Code') pursuant to section 106 of the Communications Act 2003.

Maximus is a privately-owned telecommunications company that is rolling out telecommunications infrastructure across the United Kingdom using the Code powers it has under the Communications Act 2003 and other relevant legislation. Maximus has invested

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significant resources into the identification of potential sites based upon the acceptable criteria for the siting of this infrastructure. The intention of the Company is to use its Code powers as intended by the legislation to build up a sufficient number of locations to form a network providing choice and competition as intended by Ofcom.

As a privately owned and entrepreneurial company competing in a sector dominated by multinational companies, it is Maximus's intention to provide increased choice for the public at large and be part of the private sector investment into the UK's telecommunications infrastructure providing a much needed increase in connectivity, at the same time as creating a truly useful service for the public both now and as the Company evolves in the future.

The Application under the GPDO

The Company is planning to install, operate and maintain, electronic communications apparatus, more specifically a public call box at the location identified at the start of this application letter. The design of the public call box to be installed is detailed within the technical specification document, plans and illustrative images enclosed with this application. As the Local Planning Authority, the Company is applying to your Council for prior approval. The prior approval process is concerned with matters of siting and appearance only as set out in Part 16 of Schedule 2 to the GPDO and in the National Planning Policy Framework "NPPF" – As amended in July 2018 (paragraphs 112-116).

It is neither material nor appropriate for the determining authority to question 'need' or prevent competition as set out, in terms, in para 116 of the NPPF.

As required by the GPDO and in addition to the written description of the proposed development contained within this letter we enclose:

- A large scale 1:1250 OS map indicating the planned location of the public call box
- A company cheque for the obligatory fee of £462
- A copy of 'developer's notice' served on The London Borough of Camden (Highways Dept) in their capacity as owner highway authority in accordance with the requirements of paragraph A.3(1)(a) of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015.

In addition to the requirements under the GPDO the following have also been provided to further support the application:

- A written description, set out in this letter, and visual representation of the public call box to be installed
- Your Authority's application form completed with relevant information

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The public call box will be installed on Highway Land, and, as already stated, a 'developer's notice' has been served on the Highway Authority in its capacity as 'landowner'. A copy of this notice, and acknowledgement of receipt, is attached to this application submission, as evidence, in accordance with Para A.3 (4) (c) of notification of the proposed development, to the landowner.

As an electronic communications code operator, the Company has already been granted permission in principle by the GPDO for the installation and maintenance of electronic communication equipment on the Highway. The installation is subject to prior approval from the Local Planning Authority. The prior approval process is of course concerned solely with matters relating to siting and appearance.

You will be aware that the Court of Appeal has decided that such matters of prior approval on siting and appearance may be regarded as analogous to reserved matters following the granting of planning permission⁽¹⁾. In other words, the principle of development is not in issue – see in that regard: **Infocus Public Networks Ltd v Secretary of State for Communities and Local Government** [2010] EWHC 3309 (Admin) at [60], per Foskett J.

As the proposed public call box has been granted permission in principle by the GPDO (subject to the satisfaction of siting and appearance considerations).

However, to dismiss any misinterpretations regarding the need for the development an explanation will be given. Although society has seen an increase in mobile phone usage, there is still a need for public call boxes across all sections of the community for a variety of reasons. The public call box will provide telephone services, and, in accordance with the law, will also provide the following services to the public:

- Free emergency calls
- Free operator assistance
- Directory Enquiries

In addition to the above services Maximus's public call box will provide free telephone calls to ChildLine. A report from ChildLine showed that a significant number of calls by children are still made from public call boxes.

The public call box will also include WiFi and small cell technology in accordance with the Code powers granted to the Company. These functions will facilitate network connectivity and cellular coverage to improve access to digital and call based services.

The National Infrastructure Commission (NIC) report in December 2016 identified a pressing need to fill gaps in the UK telecoms network through the promotion of competition in the

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sector. The purpose of the GPDO prior approval process is to focus the scope of assessment in planning terms on those items that require assessment - namely siting and appearance.

All levels of Central Government recognise the public benefit of an improved telecommunications network and have introduced measures to facilitate its delivery. This approach is unequivocally reflected in the guidance contained in para 116 of the NPPF which specifically advises against planning decisions in the telecoms sector being based upon anything other than planning grounds. Local Planning Authorities *"should not seek to prevent competition in the sector or question the need for the telecommunications system"*.

The telecoms infrastructure of the UK is not currently fit for purpose. The telecommunications Code powers granted to the providers of this next generation of public call boxes were intended to address the shortfall in this vital piece of infrastructure. The GPDO is currently the appropriate, available mechanism to deliver this new on-street communications infrastructure in the timescale required by Central Government. The public call box proposed is a response to a requirement identified by Central Government and, in accordance with the provisions of the NPPF, the need for this element of essential infrastructure should not form part of the determination of this application for prior approval.

The service provided by this public call box will be free to users. Calls from the handset will be free of charge and access to WiFi will be at no charge to the end user. Facilitating free access to telecommunications is a significant public benefit of the proposals.

The Design of the Public Call Box

This is the latest version of the Maximus public call box (referred to as Max 2).

In a fast moving sector of the economy, this latest design incorporates the free-to-use, inclusive and accessible 'pay' phone, supplemented, in accordance with the operator's Code powers, by WiFi and small cell technology to improve broadband, mobile phone and data connectivity to facilitate calls made by the public.

This public call box is an updated design, using the same principles of the original Maximus public call box (referred to as Max 1) in terms of a simple design approach, sympathetic in scale and form to existing street furniture. The design has however been updated reducing its profile within the street scene so that the public call box will only be readily visible in direct views along the pavement, where it will form part of the recognisable street furniture in terms of design and scale.

The footprint of this public call box has been substantially reduced when compared to more traditional designs, to minimise the impact on useable pavement area and to be extremely discrete when viewed in profile or oblique views, as a response to perceived concern over

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appearance within the streetscape. The height and width is a specific response to the space and function requirements of the extensive telecommunications equipment housed within. The canopy serves a shelter, and housing for the solar panels that will power the phone. In addition, the entire face of the structure now incorporates photovoltaic glass to maximise the energy generating potential. The phone is easily accessible by wheelchair users⁽²⁾. Every element of this design has been carefully considered to ensure that form follows function.

The proposal submitted is an enhancement of the traditional public call box design in every regard, and will make a positive contribution to the townscape in terms of operation, function and design.

The ground or base area of the structure does not exceed 1.5 metres square in accordance with the requirements of the GPDO. The orientation of the public call box is designed to optimise customer comfort, convenience and accessibility and at the same time to maintain satisfactory safe and unimpeded pedestrian flows on the adjacent footway.

The public call box will be sited a minimum of 450mm from the pavement edge.

Installation of the public call box

Solar panels on the roof canopy of each public call box will power the phone. The phone will connect to the network via mobile telephone technology. As a result, the public call boxes do not require support from any utility services and are completely independent.

The public call box will be fixed to the pavement using a slot connection. The steel base plate will be embedded in a concrete footing, and the public call box will slot over the plate, and bolt together with a recessed hex head bolt to secure the public call box to the ground. This will involve minimal invasive works being carried out on the pavement. All street work requirements necessary to undertake the works, such as submitting opening notices or obtaining permits (as appropriate), shall be complied with.

The proposed location

In submitting this application for prior approval the Company has carefully considered the development plan for the area, including policies G1, A1, D1, D2, E1 and T1 of the Camden Local Plan 2017.

Reference has also been made to Section 9 of Supplementary Planning Document CPG1, updated in 2018.

In addition to this, careful consideration has been given to the content of appeal decision letters issued by the Planning Inspectorate. Criteria outlined by Planning Inspectors in their decisions have been relied upon to select this site for prior approval. It is our belief that the

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site chosen satisfies all the elements considered by Planning Inspectors when allowing such appeals.

The proposed location for this public call box is:

- Aligned with other items of street furniture and so is well assimilated into the existing street scene.
- Not an area where there is, or would be, visual congestion.
- On a pavement, at least 450mm back from the pavement edge, with sufficient width to allow unhindered pedestrian flow in line with TfL's Pedestrian Comfort Guidance.
- Away from pedestrian desire lines so that it will not interfere with pedestrian flows
- In an area where it will not result in any adverse impact on pedestrian or vehicular safety.

In light of the above, it is our belief that your Council should find this an acceptable application in terms of siting and appearance.

We look forward to hearing from you.

Yours faithfully



G. Hayes
Development Manager
For and on behalf of Maximus Networks Ltd

Footnotes

1. Murrell v Secretary of State for Communities and Local Government & Broadland District Council {2010} EWCA cir 1367 CA civ div
2. See Consolidated version of General Conditions as at 22 September 2014 (including annotations) as published by the Office of Communications (Ofcom) as a Schedule to the Notification under section 48(1) of the Communications Act 2003, in particular Condition 6.3(a)(i) which can be found at https://www.ofcom.org.uk/data/assets/pdf_file/0021/36192/general_conditions_22sept2014.pdf

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