



Appeal Decision

Site visit made on 22 July 2019

by **S Poole BA(Hons) DipArch MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29th July 2019

Appeal A, Ref: APP/X5210/W/18/3211502

Land adjacent to 135 Camden High Street, London NW1 7JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden.
 - The application 2018/0340/P, dated 21 January 2018, was refused by notice dated 15 March 2018.
 - The development proposed is described on the application form as the installation of a public call box.
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Appeal B, Ref: APP/X5210/W/18/3211509

Land adjacent to 14-16 Camden High Street, London NW1 0JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden.
 - The application 2018/0347/P, dated 21 January 2018, was refused by notice dated 15 March 2018.
 - The development proposed is described on the application form as the installation of a public call box.
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Decision

1. Appeals A and B are dismissed.

Procedural Matters

2. The appeal sites are located in the same street and the proposals are for the same form of development. In addition, the Council's reasons for refusal are the same in both cases. Consequently, whilst I have considered each proposal on its individual merits, I consider it appropriate to issue a single decision covering the two appeals.
3. Differing versions of the site addresses have been given on the application and appeal forms and on the decision notices. In the interests of clarity I have used the descriptions that best describe the locations of the proposed call boxes in the banner headings above.
4. The application drawings do not explicitly indicate how the proposals before me would be orientated, namely whether the solid walls would be parallel or at right angles to the pavement edge. In the absence of this information I have

deemed it necessary to take into account all scenarios in my assessment of the proposals.

5. As an electronic communications code operator, the appellant benefits from deemed planning permission for call boxes that fall within the permitted development rights of Schedule 2, Part 16, Class A, paragraph A.1 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), subject to the prior approval requirements under paragraph A.3. The appellant applied to the Council on that basis. The Council determined that prior approval was required and it was refused.
6. The Council's decisions refer to various development plan policies. However, the principle of development is established by the GPDO and prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO does not require regard be had to the development plan. The provisions of the GPDO require a proposal of this type to be assessed solely on the basis of its siting and appearance, taking into account any representations received. Nonetheless, I take account of the policies and guidance cited by both parties in so far as they are relevant to matters of siting and appearance.
7. A revised National Planning Policy Framework was published in February 2019. I am satisfied that the revised Framework does not differ from previous versions in respect of the substance of the matters before me and have not therefore deemed it necessary to seek comments on the revised Framework. Like earlier versions of the Framework, the revised version supports high quality communications infrastructure, including applications for prior approval, and requires local planning authorities determine applications on planning grounds. As the principle of development is established by the GPDO, considerations such as the need for the call boxes are not relevant matters.
8. The appeal sites are located within the Camden Town Conservation Area. The statutory requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Area. 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 alteration of the heritage asset or development within its setting.
9. The determination of these appeals was delayed due to a High Court judgement¹. The judgement concluded that the telephone kiosk in question was for the dual purpose of advertisement display and telecommunications use and therefore outside the scope of Schedule 2, Part 16, Class A of the GPDO. The information before me in these cases does not clearly show that the proposed call boxes would serve a dual purpose. I am therefore satisfied that the proposals fall within the scope of Schedule 2, Part 16, Class A of the GPDO.

Main Issue

10. The main issue is whether or not approval should be given in respect of the siting and appearance of the proposed call boxes, with particular regard to whether they would preserve or enhance the character or appearance of the

¹ Westminster CC v SSHCLG & New World Payphones Ltd [2019] EWHC 176 (Admin)

Camden Town Conservation Area (CTCA) and their effects on highway and pedestrian safety.

Reasons

11. The appeal sites are located within the pavement on Camden High Street, which is a busy shopping street that is served by 2 underground stations and numerous bus routes. It forms the central, north-south spine of the Camden Town Conservation Area, which is an architecturally diverse area with a lively mix of 19th and 20th century buildings.
12. The proposed call boxes would have canopies measuring approximately 1.325m by 1.125m that would be supported by a full-width solid wall, that would house the telephone, and two 0.55m largely glazed side elements, resulting in a largely open structure with an overall height of about 2.6m. The call boxes would be constructed of powder coated steel, polycarbonate and toughened glass and would include a solar panel on the roof.
13. I note that the call boxes would be significantly wider than the enclosed kiosk-type call boxes that are prevalent in the area, would include solid walls that would be similar in size to those seen at the ends of bus shelters in the area and would have particularly prominent and boxy canopies. In my judgement, due to their size and design, these structures would not represent a discrete or high-quality form of street furniture.
14. The proposed call box subject to appeal A would be located in front of 135 Camden High Street, next to a lay-by and close to a pair of poorly maintained, enclosed public telephone kiosks. The call box subject to appeal B would be located in front of 16 Camden High Street and close to tall lamp and CCTV posts, beyond which there is a telephone kiosk.
15. The proposed call boxes would introduce 1.325m wide by 2.6m tall solid "walls" to portions of pavement that are otherwise relatively unobstructed and, with the exception of the apparently little-used existing call boxes, reasonably uncluttered. Due to their siting, size and appearance - in particular the prominent canopy - the call boxes would be highly obtrusive and incongruous elements that would detract from the appearance of the street scene and therefore fail to preserve the character and appearance of the CTCA.
16. This harm to the significance of the CTCA would be less than substantial. Whilst paragraph 116 of the Framework indicates that, in considering applications like those before me for prior approval, the need for telecommunications systems should not be questioned, paragraph 196 of the Framework states that less than substantial harm to the significance of designated heritage assets should be weighed against the public benefits of a proposal.
17. In this case, the public benefits of a robust telecommunications network are acknowledged. However, there is no compelling case for the proposals on grounds of specific locational need and, although I note that the call boxes would be accessible to wheelchair users, it is not clear from the information provided that they would fully cater for the needs of blind or partially sighted people as well as those with ambulant mobility impairments. For these reasons, and taking into account the great weight that should be given to the conservation of heritage assets in accordance with the Framework, I do not

consider that the public benefits of the proposal are sufficient to outweigh the harm I have found.

18. Turning to highway and pedestrian safety, Camden High Street is both a heavily trafficked road and a busy central London shopping area. Whilst the call box under appeal A would be sited close to a lay-by it would be set away from the pavement edge resulting in a distinct pinch-point in front of the shop unit at 135 Camden High Street. Based on my site observations, and the information before me, I consider that, due to its siting, the proposal subject to appeal A would cause an obstruction to pedestrian movement. At best, this would cause inconvenience and annoyance to pedestrians and, at worst, it could lead to accidents during busy periods of the day. I therefore conclude that this proposal would harm pedestrian safety.
19. As the proposal subject to appeal B would be sited in a relatively wide portion of the pavement, a reasonable width of unobstructed pavement would be retained. I am satisfied that this proposal would not therefore result in harm to pedestrian safety.
20. I conclude that, due to their siting, both proposals would have a harmful effect on the appearance of the street scene and would fail to preserve the character and appearance of the CTCA. I also find that the siting of the proposal subject to appeal A would also unduly prejudice the safety of pedestrians.

Other matters

21. The Council's third and fourth reasons for refusal relate to crime and antisocial behaviour and wheelchair accessibility. As the GPDO requires proposals for call boxes to be assessed solely on the basis of their siting and appearance, the third and fourth reasons for refusal do not require consideration.
22. The appellant has referred to a number of appeal decisions in support of the appeals. However, as each appeal relating to prior approval of a proposed call box is necessarily assessed on its individual merits having regard to its particular siting, context and circumstances, I attach limited weight to the appeal decisions referred to.

Conclusion

23. For the reasons set out above, and having regard to all other matters raised, I conclude that appeals A and B should fail.

S Poole

INSPECTOR