



## Appeal Decision

Site visit made on 2 September 2019 by C Brennan BAE (Hons) M.PLAN

**Decision by Andrew Owen BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 16<sup>th</sup> October 2019**

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**Appeal Ref: APP/X5210/W/18/3211465**

**Pavement outside 7 High Holborn, London, WC1V 6DR**

- 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 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
  - The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/0328/P, dated 21 January 2018, was refused by notice dated 16 March 2018.
  - The development proposed is a call box.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matters

3. The address on the application form states No. 7 High Holborn. However, this is misleading as the appeal site relates to land to the front of the building, not the building itself. For clarity and precision, I have used the address as included on the decision notice.
  4. I have taken into account the submitted Opinion of Counsel regarding the recent judgement of Westminster City Council v Secretary of State for Housing, Communities and Local Government & New World Payphones Ltd (2019) EWHC 176 (Admin), which considered the matter of dual purpose of call boxes for advertisement display and telecommunications use. From the materials before me, I find no evidence to suggest that the proposal includes elements that are there for the purpose of advertising. I consider that the proposal relates to the operator's electronic communications network only.
  5. As such, and as the appellant is an electronic communications code operator, the appellant is able to benefit from permitted development rights for a proposed call box under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO), subject to the condition in part A.3 which requires the prior approval of the local planning authority in respect of the siting and appearance of the development.
  6. The provisions of the Order require the local planning authority to assess the proposed development solely on these matters. As such considerations such as
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the need for a telephone kiosk and whether it may be used for advertising in the future are not relevant to this appeal. Likewise the Council's concerns relating to the proposal's accessibility for wheelchair users goes beyond the scope of part A.3. Accordingly, the main issues are set out below.

### **Main Issues**

7. The main issues are:

- i) the effect of the proposal's siting and appearance on the character and appearance of the surrounding area;
- ii) the effect of the proposal's siting and appearance on highway and pedestrian safety;
- iii) the effect of the proposal's siting and appearance on crime and anti-social behaviour in the surrounding area.

### **Reasons for the Recommendation**

#### *Character and Appearance*

- 8. The appeal site is located on the northern side of High Holborn, west of the junction with Gray's Inn Road. The surrounding area is busy and commercial in nature, with the closest entrance to Chancery Lane Underground Station approximately 30m to the east.
- 9. During my site visit I observed that a structure displaying maps of the local area, measuring around 2.5-3m in height, had been installed about 3-4m to the east of the site. This structure was likely installed since the application was submitted, as it does not appear in the submitted materials. A vendor's kiosk lies about 5m further to the east. A large canopy measuring around 2.5-3m in height covers the entrance to No. 7 High Holborn, and protrudes about 2-2.5m from the front façade over the pavement. The proposal, at 2.6m in height, would be sited roughly 1.5-2m in front of the canopy. In combination with the public map structure, the vendor's kiosk and the large canopy, the proposal, despite its neutral design, would create a cluttered environment within this particularly busy section of the pedestrian thoroughfare.
- 10. The appellant asserts that public call boxes, like other street furniture, are typical of a major city. However, given the harmful impact that the proposal would have upon the character and appearance of the street scene, it is clear that the proposal would not be appropriately sited in this case.
- 11. For the above reasons, I conclude that the siting and appearance of the proposal would cause unacceptable harm to the character and appearance of the surrounding area.

#### *Pedestrian and Highway Safety*

- 12. The appellant states that the chosen location was based upon a clear methodology derived from the Transport for London document Pedestrian Comfort Guidance, taking matters such as visual congestion, clutter, pedestrian flows, etc into account. However, according to the primary test provided by the appellant for establishing the suitability of the appeal site, it is suggested that the footway should be 5.3m in width. Although the plans show the pavement is 5.6m wide this measurement is given for a part of the pavement wider than

that where the box would be installed. As such I would not be confident the proposal would comply with this advice. Notwithstanding this, given the high footfall along this section of the pavement and the close proximity of the nearby Underground Station and bus routes, I consider that the proposal, due to its bulk and prominent position, would unacceptably obstruct pedestrian movement, impede pedestrian lines of sight, increase the risk of overcrowding on the pavement, and hence impact on pedestrian and highway safety.

13. For the above reasons, I conclude that the siting and appearance of the proposal would cause unacceptable harm to pedestrian and highway safety.

#### *Crime and Anti-Social Behaviour*

14. Comments received from the Metropolitan Police Service suggest that the proposal could act as a focal point for anti-social behaviour. However, I have no conclusive evidence to demonstrate how this would be the case. Furthermore, I have no evidence that would support the view that the siting of call boxes is a contributory factor to the rise in crime.
15. The proposed location would be located within a busy pedestrian thoroughfare and would be open to wide public surveillance. Furthermore, as the design of the proposal does not include a front door and incorporates glass within the side panelling, any criminal or anti-social activity would be readily observed by pedestrians and other road users.
16. For the above reasons, I do not consider that the proposal would cause an increase in crime and anti-social behaviour in the area.

#### **Other Matters**

17. The appellant has drawn my attention to various appeal determinations for similar development in support of the proposal. However, as the full details and circumstances of these appeals are not before me, I am unable to draw direct parallels between these cases and the current proposal. In any case, as each appeal must be determined on its own merits, I give little weight to these other cases.

#### **Conclusion and Recommendation**

18. Although I have found that the proposal would not cause an unacceptable level of harm in respect of increasing the levels of crime and anti-social behaviour in the area, I do not consider that this outweighs the harm the proposal would cause to the character and appearance of the area, and pedestrian and highway safety.
19. Insofar as they relate to siting and appearance, I have regard to Local plan policies D1 which requires that development proposals must respect local context and character, G1 which states that the Council will deliver growth by supporting development that makes best use of its site with due regard to its surroundings, A1 which states that the Council will resist development that fails to adequately assess and address transport impacts, T1 which states that the Council will ensure that development improves the pedestrian environment, and C5 which states that the Council will require development proposals to demonstrate that they incorporated design principles which contribute to community safety and security. I have not had regard to Policy C6, which

relates specifically to accessibility and therefore falls beyond the remit of Schedule, 2, Part 16, Class A, Condition A.3 of the Order.

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

*C Brennan*

APPEAL PLANNING OFFICER

**Inspector's Decision**

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*Andrew Owen*

INSPECTOR