



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: 16th October 2019

Appeal Ref: APP/X5210/W/18/3211253

Pavement outside 70 Theobald's Road, London, WC1N 3NR

- 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 2018/0332/P, dated 21 January 2018, was refused by notice dated 15 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. 70 Theobald's Road. 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 including the setting of the nearby Bloomsbury Conservation 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 a wide pavement on the northern side of Theobald's Road. The site is situated between Holborn Police Station, a large concrete building, and a busy road. The surrounding pavement is largely free from street furniture. This section of pavement is characterised by three large trees on either side of the appeal site, which are of significant value to the surrounding townscape and provide a verdant element to the setting of the Bloomsbury Conservation Area which is located on the opposite side of the road.
9. The proposal would introduce a large, bulky structure on a section of pavement that is currently unencumbered by street furniture. Despite its neutral design, it would appear as an incongruous and overly prominent feature within the context of the streetscene. Furthermore, the proposal would be sited within the row of trees along this section of pavement and it is considered that the proposal would detract from this pleasing, verdant arrangement, thereby undermining their positive contribution to the character and appearance of the local townscape including the setting of the nearby Conservation Area.
10. The appellant asserts that public call boxes, like other street furniture, are typical of a major city. However, as the proposal would introduce a visually intrusive and bulky element within a section of pavement that has been left open and is characterised by attractive trees, it is considered that the proposed box would not be acceptable in this location.
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 and the setting of the Bloomsbury Conservation Area. The harm to the setting of the conservation area is not outweighed by the public benefits of the communications equipment.

Pedestrian and Highway Safety

12. The appeal site is located on a wide pavement. During my site visit, I observed that there was moderate pedestrian footfall along the pavement adjacent to

the appeal site. This is corroborated by the evidence provided by the appellant based on the Transport for London document Pedestrian Comfort Guidance. Although I acknowledge the Council's comments that the proposal would result in the reduced width of the pavement; given the significant width of the existing pavement and the moderate pedestrian footfall along the adjacent pavement, I consider that the proposal would not be likely to unacceptably impede pedestrian flow or cause harm in terms of pedestrian or highway safety at this location.

13. For the above reasons, I conclude that the siting and appearance of the proposal would not 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 open to wide public surveillance and would be located in front of a police station. 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 pedestrian and highway safety or increasing the levels of crime in the area, this does not outweigh the harm the proposal would cause to the character and appearance of the area.
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