



## 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/18/3211224

#### Pavement outside 113 High Holborn, London, WC1V 6JJ

- 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 2018/0320/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. 113 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 including the Bloomsbury Conservation Area and the setting of the Grade II listed building at Nos 114-115 High Holborn;
- 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 set within the pavement on the northern side of High Holborn, a very busy commercial street. As the appeal site is within 20m of the entrance to Holborn Underground Station, there is a very high level of pedestrian movement through and around the appeal site. It is situated within the Bloomsbury Conservation Area, whose significance is derived from the quality and layout of its streets, and adjacent to Nos. 114-115 High Holborn, a grade II listed building with an attractive façade facing an open pavement, aside from a few mobile tables and chairs that are positioned to the front of No. 113 for the purposes of outdoor dining.
9. Contrary to what is shown on the plans and photographic illustration submitted as part of the application, the width of the pavement has been increased by approximately 2-2.5m since the application was submitted. With this increase, the proposal would not be 0.45m from the kerb as shown in the plans, but would, if built as per the northing and easting provided on the plans and located 2.6m from the building at No 113, be conspicuously situated within the centre of a very busy pedestrian thoroughfare. Even if it were positioned 0.45m from the new pavement edge, it would still have an extremely incongruous and obtrusive presence within a relatively uncluttered part of the streetscene, to the severe detriment of the area's character and appearance. For the same reasons, the proposal would have a similarly deleterious effect upon the character and appearance of the Bloomsbury Conservation Area and the setting of the nearby Grade II listed Building.
10. The appellant asserts that public call boxes, like other street furniture, are typical of a major city. However, despite its neutral design, the proposal would introduce a visually intrusive, bulky and overtly obstructive element within a particularly busy pedestrian thoroughfare. As such, 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. The harm to the conservation area and the setting of the listed building is not outweighed by the public benefits of the communications equipment.

*Pedestrian and Highway Safety*

12. The appellant states that the choice of appeal site 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, due to the enlargement of the pavement that has since occurred and the provision of table and chairs outside No 113, the report provided by the appellant demonstrating the application of this methodology is now out of date. As a significant portion of the pavement to the front of No. 113 is already occupied by tables and chairs, the obtrusive position of the proposal would possibly require pedestrians to walk along the narrow strip of pavement next to the busy adjacent road. Given that the appeal site is situated within an especially busy section of pavement particularly due to its proximity to Holborn station, overcrowding on the pavement may lead to pedestrians spilling into the adjacent busy road
13. Due to its bulk, width and siting the proposal would introduce an obstruction that would severely impede pedestrian flow to the detriment of highway users. I conclude therefore 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 the levels of crime and anti-social behaviour in the surrounding area, I consider that this does not outweigh the harm the proposal

would cause to the character and appearance of the area including the Bloomsbury Conservation Area and the setting of a Grade II listed building, 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, D2 which states that the Council will require development to preserve the character and appearance of conservation areas and the setting of listed buildings, 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