



## 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/18/3211462**

**Land Adjacent to 6 Gray's Inn Road, London, WC1X 8HG**

- 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 2018/0323/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. 6 Gray's Inn 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. Similarly, I have used the postcode on the decision notice as that appears to be more accurate than that given on the application forms.
  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.
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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 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 Issue**

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 eastern side of a commercial street, to the north of Chancery Lane Underground Station. During my site visit, I observed that the building directly to the east of the site as seen in the submitted materials has since been demolished, with approximately half of the pavement between the appeal site and the adjacent site closed off for construction works. I also observed that a telephone box had been installed directly on the opposite side of the road which has a distinctive monolithic design and appears as a prominent feature of the street. Due to its close proximity and markedly dissimilar design, the proposal would contrast poorly with the existing kiosk, thereby resulting in the appearance of an asymmetrical and irregular streetscene. Furthermore, due to its considerable height and bulk compared to other items of street furniture nearby, it is considered that the proposal would in itself appear as an overtly prominent feature of the streetscene.
9. 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 appear visually discordant with the existing nearby kiosk to the detriment of the character and appearance of the streetscene.
10. 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*

11. 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 rather than 4.2m as shown on the plans. The tertiary test also shows a worsening of the footway clear zone. As such,

the appellant's own evidence suggests that the siting of the proposal is inappropriate.

12. Due to its height and bulk, and given the high footfall along the adjacent pedestrian thoroughfare and the close proximity of the nearby Underground Station and bus routes, I consider that the proposal would unacceptably obstruct pedestrian movement in this location, impede pedestrian lines of sight and increase the risk of overcrowding on the pavement. Furthermore, I observed that the adjacent section of the road has been marked as a loading bay and so, due to the siting of the proposal, loading vehicles would have reduced visibility of the adjacent pavement, thereby increasing risk for pedestrians and other road users.
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