



Appeal Decision

Site visit made on 22 May 2018

by Rachel Walmsley BSc MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 June 2018

Appeal Ref: APP/H5960/W/17/3181316

Pavement outside 295 Lavender Hill, London SW11 1LP

- 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 (as amended).
 - The appeal is made by Mr Tom Fisher, Euro Payphone Ltd against the decision of the Council of the London Borough of Wandsworth.
 - The application 2017/2566 dated 22 March 2017, was refused by notice dated 20 June 2017.
 - The development proposed is a call box.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application and appeal form refers to the site address as being No 293 Lavender Hill. The main parties have agreed to a more accurate address as No 295 Lavender Hill and therefore I have amended the site address in the banner heading above accordingly.
3. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed telephone call box under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (hereafter referred to as the GPDO) subject to prior approval by the local planning authority of siting and appearance. The Council determined that prior approval was required and refused for the siting and appearance of the electronic communications apparatus proposed, taking into account representations received. My determination of this appeal has been made in the same manner.
4. The construction of a telephone call box and the display of advertisements are distinct and separate matters requiring separate applications. The current appeal refers to the construction of a call box only and it is on this basis that I have determined the appeal.
5. Within the Council's evidence reference is made to the development plan. The principle of development is established by the GPDO and a prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO includes no requirement to have regard to the development plan. On this basis, therefore, the appeal is not determined on the basis of Section 38(6) of the Planning and Compulsory Purchase Act 2004. The development plan policies

may be relevant insofar as they relate to the planning judgment to be made and can be taken into account as a form of evidence. It is on this basis that I have considered the policies before me and determined the appeal accordingly.

Main Issues

6. These are whether or not approval should be given in respect of the siting and appearance of the development, with particular reference to i) the character and appearance of the locality and ii) and the convenience of highway users.

Reasons

Character and appearance

7. Lavender Hill is a commercial area with pavements and commercial uses either side of a busy thoroughfare. The appeal site relates to an area of pavement 600mm in from the kerbside edge on Lavender Hill. In line with the appeal site is a range of street furniture including trees, lampposts and a litter bin. The modest form, scale and amount of street furniture and the respectable width of the pavement at the appeal site contribute to the pleasant and open character of the appeal site and its surroundings.
8. The call box proposed would be freestanding. Although glazed it would not be entirely transparent and therefore the glazing, together with the call box's frame and accoutrements within the box, such as the telephone, would have a presence within the street. Given the prominent position of the call box towards the kerb and in an open area, together with its form and scale which would exceed that of existing street furniture, the call box would appear overly dominant and therefore visually intrusive within the street scene. Furthermore, the proposal would add discernibly to the existing street furniture, creating a harmful proliferation of street furniture that would create street clutter.
9. Amongst other things, Policy DMS1 of the Local Plan¹ and policy IS3 of the Core Strategy² seek development that is sympathetically designed and contributes positively to local character. More specifically policy DMS1 seeks development that furnishes public spaces to reflect the character and appearance of the area and minimise street clutter, obstruction and visual intrusion. Whilst policy DMS1 does not relate directly to telecommunications equipment, it relates to development within the public realm which is of direct relevance to the call box proposed and on this basis I give attention to the policy in my considerations. Although the call box would be simple in design and would not be out-of-keeping with the commercial character of the area, it would, for the reasons given, detract from the area's open character and would undermine recent efforts by the Council and policy requirements to minimise street clutter.
10. I have read the appeal decisions highlighted by the appellant whereby the Inspector found that the siting and appearance of the call boxes proposed was acceptable. I have read nothing within these appeal decisions which suggests a strong likeness with the appeal site for them to set a favourable precedent. I have, therefore, necessarily considered the appeal proposal on its own merits.

¹ Wandsworth Local Development Framework, Development Management Policies Document (Adopted February 2012)

² Wandsworth Local Plan, Core Strategy (Adopted March 2016)

11. In all, therefore, for the reasons given, the siting and appearance of the proposal would have an adverse effect on the character and appearance of the locality.

Convenience of highway users

12. Lavender Hill experiences high levels of vehicle movements and pedestrian footfall. The call box would be set back from the pavement edge and therefore would not restrict the sight lines of motorists. Together with the call box being simple in form and design, it would not be a visual distraction to motorists. I do not find, therefore, that the proposal would hinder the safe movement of motorists and by association, would not risk any adverse impact to pedestrians associated with vehicle movements.
13. It was apparent from my site visit that the majority of pedestrian footfall occurs between the existing line of street furniture and building frontages. The call box would be positioned within the line of existing street furniture and therefore away from the pedestrian desire lines. I find, therefore, that the call box would leave an acceptable area of pavement for pedestrians to walk in both directions and simultaneously. On this basis I do not find that the call box would limit the capacity of the pavement to an unacceptable degree and in such a way that the proposal could be considered harmful to the convenience of pedestrians.
14. I am aware that two prior approval applications for the installation of telephone boxes within proximity of the site were dismissed at appeal. For both appeals the Inspector found that the telephone box proposed would encroach into the pavement and therefore impede pedestrian desire lines and movement. I have not found the same with regards to the current proposal, the call box proposed would leave sufficient pavement space for pedestrians to walk. The prior approval applications, therefore, do not carry favourable weight with regards to highway convenience.
15. In all, and for the reasons given, I conclude that the call box would not be harmful to the convenience of highway users.

Other matter

16. The principle of the development is supported by part 5 of the National Planning Policy Framework (the Framework) which encourages the development of telecommunication infrastructure to support sustainable economic growth. Furthermore, the call box would be fully accessible to those with impaired mobility and would help reduce problems of anti-social behaviour that can be associated with phone boxes. Nonetheless, the Framework also seeks telecommunications equipment that is sympathetically designed and appropriate to its context. Although not interfering with heritage assets, for the reasons given, the call box would be harmful to the character and appearance of the area and therefore would not achieve the aims set out in the Framework.

Conclusion

17. I have found that the appeal proposal would not be harmful to the convenience of highway users. Nonetheless this does not outweigh my findings in relation to the character and appearance of the locality. Thus, for the reasons given

and having regard to all matters raised, refusal of prior approval is justified and therefore the appeal is dismissed.

R Walmsley

INSPECTOR