The Planning Inspectorate

Appeal Decision

Site visit made on 24 June 2019

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 16 July 2019

Appeal Ref: APP/H5390/W/18/3208903
Outside 113 Lillie Road, London SW6 7SX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
- The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Hammersmith & Fulham.
- The application Ref 2017/00669/TEL56, dated 20 February 2017, was refused by notice dated 9 February 2018.
- The development proposed is a call box.

Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a call box at land outside 113 Lillie Road, London SW6 7SX in accordance with the terms of the application Ref 2017/00669/TEL56, dated 20 February 2017, and the plans submitted with it.

Procedural matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

3. The National Planning Policy Framework (the Framework) supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of Schedule 2, Part 16 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network is permitted development. Therefore, matters such as the need for the development are not at issue in this appeal.

4. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require

regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

5. The Hammersmith and Fulham Local Plan was adopted on 28 February 2018. This replaced the Core Strategy 2011 and the Development Management Local Plan 2013 and along with the London Plan forms the Development Plan for the Borough.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposed kiosk upon the character and appearance of the surrounding area.

Reasons

7. The proposed kiosk would be sited outside 113 Lillie Road, one of a number of shops in a parade along the south side of the road. On the opposite side of the road there is a school set behind a relatively wide footway and hedge. The road itself is a good width and the overall sense is one of openness. In terms of existing street furniture there is only an existing BT installation, a bicycle hoop and two posts in the immediate vicinity of the site for the proposed kiosk, and these are all on the roadside of the footway, which in this location is relatively wide.

8. The kiosk would be of a clean, functional and contemporary design, of three sides and constructed from PPC steel and polycarbonate. It would be in line with the existing furniture towards the outside of the footway. Taking this and the above factors into account, and whilst acknowledging that the kiosk would to an extent diminish the openness of the area, I nonetheless consider that this would not be to such a degree that it would cause significant harm to the character and appearance of the area.

9. There would therefore be no conflict with policies in the development plan designed to prevent such harm

10. In arriving at this conclusion, I note that Policy 6.10 of The London Plan seeks to significantly increase walking trips by, amongst other things, de-cluttering and simplifying the street scene, and I acknowledge that the Council has invested a significant amount in de-cluttering throughout the borough which is supported within the council's Streetsmart design guide. This guidance states that the aim is to return visual order to the streets by de-cluttering, using a limited palette of materials and introducing street furniture only where absolutely necessary.

11. Such an aim is completely laudable but nonetheless somewhat at odds with the Framework's support of high quality communications networks. Furthermore, as I have previously stated, need for the development is not a matter for consideration in this appeal.

Conditions

12. Any planning permission granted for the call box under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except

to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

13. In light of the above reasoning, and taking into account all other matters raised, I conclude that the appeal should be allowed and prior approval should be granted.

John Wilde

INSPECTOR