
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/18/3208963

Outside 53 Fulham Broadway London SW6 1AE

- 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 London Borough of Hammersmith and Fulham.
 - The application Ref 2017/00752/TEL56, dated 20 February 2017, was refused by notice dated 12 February 2018.
 - The development proposed is a call box.
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Decision

1. The appeal is dismissed.

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 appeal site is within an irregularly shaped area of footway to the north of Fulham Broadway. The appeal site lies within the Walham Green Conservation Area and near to two listed buildings. The footway is narrow towards the east but widens out until it reaches the junction with Vanston Place, where it once again reduces in width. The proposed kiosk would be to the front of the footway outside of 53 Fulham Broadway, next to an existing litter bin and within the narrower section of footway.
8. As well as the existing litter bin the footway contains bollards, a CCTV post, posts containing a highway camera and signage respectively and several hooped bicycle racks, which were well used at the time of my visit. Further to the west there are four existing telephone boxes, but these are positioned at the rear of the footway.
9. The proposed kiosk would be three sided, of contemporary design and made out of PPC steel and polycarbonate. By virtue of its positioning towards the front of the footway it would be immediately noticeable to pedestrians on rounding the corner on the narrow section of footway to the east. It would constrict the relatively open view that currently exists and would appear at odds with the bulk and mass of the other street furniture that it would be in line with.
10. Furthermore, in views from the west the proposed kiosk would be seen in conjunction with the Grade II* listed Fulham Town Hall and its contemporary design and materials would be at odds with the classical styling and stonework of this building. The proposed kiosk could not therefore be said to be preserving or enhancing the setting of the town hall or indeed the conservation area.
11. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant permission for development which affects a listed building or its setting, special regard must be given to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. Paragraph 193 of the National Planning Policy Framework also requires that great weight should be given to the conservation of heritage assets.
12. Paragraph 196 of the Framework makes clear that where a development proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
13. In this case the proposed kiosk would be wheelchair friendly, would contribute to the provision of a telecommunications network, which would add to the choice of providers and potentially bring about competition in the market. I

afford this reasonable weight. I am also aware that the Framework considers that an advanced, high quality and reliable communications network is essential for economic growth and social well-being.

14. These matters do not however outweigh the harm that would be occasioned to the setting of the Grade II* building or the Walham Green Conservation Area.
15. The proposed kiosk would also conflict with policy 6.10 of the London Plan which seeks to promote a simplified streetscape and de-cluttering and with policy DC10 of the Hammersmith and Fulham Local PLAN 2018, which, whilst lending support to the expansion of a telecommunications network, also makes clear that the siting and appearance of apparatus should not have an unacceptable impact on listed buildings or conservation areas.

Conclusion

16. In light of the above reasoning, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

John Wilde

INSPECTOR