



Appeal Decision

Site visit made on 25 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/18/3208962

Outside 168-188 Fulham Palace Road, London W6 9PA

- 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 2017/00749/TEL56, dated 20 February 2017, was refused by notice dated 12 February 2018.
 - The development proposed is a call box.
-

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 safe and efficient operation of the highway and the character and appearance of the surrounding area.

Reasons

7. The proposed kiosk would be located about 300mm from the kerb line outside 168-188 Fulham Palace Road, which lies within the Crabtree Conservation Area.

Safe and efficient operation of the highway

8. The kiosk would be 1.325m in width and the footway at this location is only about 3.0m. More importantly there is an entrance to a Tesco Express that would be almost directly behind the proposed kiosk. There is also a cash machine located in the wall of the Tesco in close proximity to the south and three hooped bike racks slightly to the north. The entrance, cash machine and bike rack all produce a series of pedestrian movements that at times are contradictory and these would be constricted by the presence of the proposed kiosk that would considerably limit the width available for pedestrian movement. To my mind this would compromise the safe and efficient operation of the footway at this location.
9. Conflict would therefore occur with policy TR29 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document which requires a minimum width of 1.8m of clear and unobstructed footway.

Character and appearance

10. As previously mentioned, the footway is relatively narrow, and within close proximity of the site there are three columns, a litter bin and a tree all towards the front of the footway and the aforementioned bike racks at the rear. The presence of street furniture to both the front and rear of the footway leads to a sense of clutter and lack of openness and this is most evident when the bike racks are being well used.
11. The introduction of the proposed kiosk would amplify this sense of clutter and lack of openness and in doing so would have a harmful affect on the character and appearance of the area, in turn failing to preserve the character or appearance of the conservation area. The harm caused would be less than substantial.
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. I acknowledge that 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. However, Paragraph 193 of the National Planning Policy Framework requires that great weight should be given to the conservation of heritage assets, and in this case I do not consider that the public benefits outweigh the harm identified.
15. The proposed kiosk would 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 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