



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/18/3208966

Corner of Fulham Road and Waterford Road, London, SW6 5UB

- 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 2017/00753/TEL56, dated 20 February 2017, was refused by notice dated 13 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 an area of footway on south side of Fulham Road, a short way from the junction with Waterford Road. The site is within the Moore Park Conservation Area and the statutory requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. There are also two Listed buildings within the immediate area, the Grade II* listed Fulham Town Hall and the Grade II listed former Fulham Broadway underground station entrance building.
8. The proposed kiosk would be sited towards the rear of the footway against an existing concrete wall surmounted by a metal railing. It would be 2.6m tall at its highest point, and three sided with a width of 1.325m. It would be of a modern design and constructed out of PPC steel and polycarbonate.
9. The footway at this point is not particularly wide and narrows even further a few metres to west where steps encroach onto the footway. The area around the appeal site already has an existing telephone kiosk which would be only about 2m from the proposed kiosk. There is also a CCTV column and a lamp column within the immediate area. Furthermore, within a very short distance of the appeal site, and on the same side of the road, there is a bus shelter with bus stop post/sign, a litter bin and beyond the bus stop a further two telephone kiosks, a free standing cash machine and a telecommunications/electronics cabinet. On the footway opposite the appeal site there are a variety of traffic signs, a litter bin and a number of bicycle stands, that were reasonably full at the time of my visit.
10. It follows that the area already has a significant amount of installations on both the front and back of the footway that give a constricted and cluttered appearance. The addition of the proposed kiosk, whilst not visually intrusive in its own right, would only add to the proliferation of street clutter that already exists on a relatively narrow section of footway, thereby increasing the sense of disorder. It would therefore have a negative effect on the character and appearance of the area. It would not therefore preserve the character or appearance of the Conservation Area, although the harm would be less than substantial.
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. The Town Hall would be the nearest listed building to the proposed kiosk but would nevertheless be about 100m away. Taking into account this distance and that both the proposed kiosk and the Town Hall would be at the rear of the footway, views of both together would be very oblique such that there would be no harmful impact on the setting of the Town Hall. As the former entrance to the underground station is further away, then the setting of this would also be preserved.
13. Notwithstanding this however, I have found that the proposed kiosk would cause less than substantial harm to the Moore Park Conservation Area. 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.
14. 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.
15. 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.
16. 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

17. 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