
Appeal Decisions

Site visit made on 2 July 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

All Appeals

- 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 Metropolis Planning and Design on behalf of Maximus Networks Ltd against the decision of the Council of the London Borough of Wandsworth.
 - The development proposed in each case is prior approval for siting and appearance: installation of public call box.
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Appeal A Ref: APP/H5960/W/18/3210700 **77-99 Battersea Park Road, London SW8 4DU**

- The application Ref 2018/0311, dated 18 January 2018, was refused by notice dated 15 March 2018.
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Appeal B Ref: APP/H5960/W/18/3210661 **127A Lavender Hill, London SW11 5QJ**

- The application Ref 2018/0309, dated 18 January 2018, was refused by notice dated 12 March 2018.
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Appeal C Ref: APP/H5960/W/18/3210668 **Battersea Bridge Road adj. Musgrave Court, Battersea Bridge Road, London SW11 3AN**

- The application Ref 2018/0312, dated 18 January 2018, was refused by notice dated 13 March 2018.
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Appeal D Ref: APP/H5960/W/18/3210705 **38 Balham High Road, London SW12 9AH**

- The application Ref 2018/0322, dated 19 January 2018, was refused by notice dated 15 March 2018.
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Appeal E Ref: APP/H5960/W/18/3210709 **161 Balham High Road, London SW12 9AU**

- The application Ref 2018/0325, dated 19 January 2018, was refused by notice dated 15 March 2018.
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Appeal F Ref: APP/H5960/W/18/3210706
151 Balham Hill, London SW12 9DJ

- The application Ref 2018/0324, dated 19 January 2018, was refused by notice dated 15 March 2018.
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Appeal G Ref: APP/H5960/W/18/3210802
194 Balham High Road, London SW12 9BP

- The application Ref 2018/0333, dated 18 January 2018, was refused by notice dated 15 March 2018.
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Appeal H Ref: APP/H5960/W/18/3210808
York Road adj. Wilberforce House, York Road, London SW11 3QW

- The application Ref 2018/0313, dated 18 January 2018, was refused by notice dated 16 March 2018.
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Appeal I Ref: APP/H5960/W/18/3210810
250 York Road, London SW11 3SJ

- The application Ref 2018/0314, dated 18 January 2018, was refused by notice dated 16 March 2018.
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Appeal J Ref: APP/H5960/W/18/3210812
154 Battersea Park Road, London SW11 5AP

- The application Ref 2018/0315, dated 18 January 2018, was refused by notice dated 16 March 2018.
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Appeal K Ref: APP/H5960/W/18/3210806
491 Battersea Park Road, London SW11 4LR

- The application Ref 2018/0310, dated 18 January 2018, was refused by notice dated 16 March 2018.
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Appeal L Ref: APP/H5960/W/18/3210824
Adj 154 Balham High Road, London SW12 9BN

- The application Ref 2018/0320, dated 19 January 2018, was refused by notice dated 16 March 2018.
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Decisions

1. The appeals are dismissed.
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Procedural Matters and Background

2. The description of development used in the above heading has been taken from Part E of the appeal forms as they more accurately reflect the scope of the proposals.
3. The Westminster judgement¹ considered the matter of development for 'the purpose' of an electronic communications code operator's electronic communications network for the purposes of Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). There is a requirement to ensure that a proposal is solely for the purpose of the operator's electronic network.
4. I note comments from the Council and third parties in relation to the potential use of the call box for advertisement. The proposals include an opening glass panel door to the rear of the call box. Within the evidence, it is suggested that this door is for security purposes and enables access for maintenance purposes. In addition, the proposals are not accompanied by an application for advertisement consent. There is no compelling case to confirm that advertisements would form part of the proposals. Consequently, I cannot be certain that the call boxes would provide a dual purpose.
5. The National Planning Policy Framework (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 GPDO 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.
6. The provisions of the GPDO, 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. Therefore, whilst the appellant has referred to the purported benefits of the proposed call box, I have not taken these matters into account other than in respect of heritage assets where the Framework advises at Paragraph 196, that, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal".
7. The appellants make note in the appeal statement of examples of court cases and appeals relating to the siting of similar proposals. I note these examples and the general principles raised, but there is limited information before me as to the detailed siting and appearance of these proposals. In any case, I have dealt with each of the current proposals on its individual merits with regard to its specific location and context.

¹ Westminster City Council v Secretary of State for Housing, Communities and Local Government & New World Payphones Ltd [2019] EWHC 176 (Admin)

Planning Policy

8. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the design, conservation, amenity protection and transport aims of Policies 6.10 and 7.5 of the London Plan, Policies PL3 and IS3 of the Wandsworth Local Plan Core Strategy and policies DMS1, DMS2, DMS9 and DMT1 of the Wandsworth Local Plan Development Management Policies Document, related guidance and the Framework only in so far as they are a material consideration relevant to matters of siting and appearance, designated heritage assets and the safe and efficient operation of the highway.

Main Issues

9. The main issues are;
- In all cases, the effect of the siting and appearance of the proposed call box on the character and appearance of the area, and additionally in the case of Appeals A and K, on the setting of heritage assets.
 - In all cases, the effect of the siting and appearance of the proposed call box on the pedestrian environment.

Reasons

Siting and appearance of the call boxes

10. The call boxes are of the same design. They broadly consist of a 3 sided rectangular structure, with one broad panel across the back and two short sides. The roof would be of a canopy style, extending beyond the depth of the side panels. The materials would be toughened glass, clear polycarbonate and steel.
11. The structure would be of a simple, functional form and appearance. The clear glass would allow views through the call boxes and they would be mostly open on two sides and the front in order to enable wheelchair access. Nevertheless, due to their height and footprint, the call boxes would appear as substantial structures.

Appeal A - 77-99 Battersea Park Road

Character and Appearance, including designated and non-designated heritage assets

12. The call box would be located on the pavement outside a block of residential development on Battersea Park Road. On the opposite side of the road to the appeal site is the grade II* listed building of Battersea Power Station. I consider its significance lies, in part, in its iconic design and links to the industrial and cultural history of the area.
13. The Duchess Belle public house (referred to as The Duchess of York in submissions) has been identified as a non-designated heritage asset by the Council. The significance of the building lies, in part in it being one of few

historic buildings on this section of road that has retained its proportions and detailing.

14. The call box would be positioned relatively centrally in the pavement, in line with existing features and there are further features to the sides of the pavement. Planters soften the appearance of the streetscene and complement street trees. Nonetheless, the proposed call box would be more visually intrusive and dominant in the streetscene than the low level and/or slim existing street furniture. This is as a result of its tall height, top-heavy appearance and overall bulk. Furthermore, even with clear elements, the proposed steel finish would make it stand out against, and be inconsistent with, the predominantly dark colour of the existing street furniture. Given the number of existing structures on the pavement near the site it would add to the cluttered appearance in this part of the street.
15. The proposal would disrupt views of The Duchess Belle along Battersea Park Road where the footway widens and views of it are partly framed by landscaping. The greater scale and mass of the proposed call box would be more obstructive and jarring in these views than the existing street furniture.
16. There would be locations where the call box and the listed building would be seen and experienced together. Nonetheless, the proposed call box would be amongst other street furniture and I saw considerable development taking place around Battersea Power Station at the time of my visit. Whilst I have found that there would be harm to the street scene, given the urban street context, it would not harm the setting of the listed building.
17. The harm to the setting of the non-designated heritage asset would be less than substantial to the significance of it as a whole. The appellant contends that the call box would be of a high quality design, with features that would be helpful for convenient wheelchair access and would deter anti-social activity. However, the public benefits arising from the proposal, in terms of improved accessibility, energy efficiency and security, do not, in this instance, outweigh this harm.
18. Due to its siting and appearance, the proposed call box would have a harmful effect upon the character and appearance of the area and the setting of a non-designated heritage asset.

Pedestrian environment

19. Although it would be located centrally in the footway, there are existing features in close proximity to the site that already direct pedestrians to either side of the proposed call box. The footway is relatively wide and there was not a high level of pedestrian footfall at the time of my visit. While I note reference to future plans to improve the highway, no detailed evidence has been provided in regard to this. There is no compelling evidence to lead me to conclude that the scheme would create increased difficulty for any pedestrians, cyclists or other users of the highway.

20. Therefore, I am satisfied that the appeal proposal would not adversely affect the safe and efficient movement of pedestrians, whatever the orientation of the call box.

Appeal B - 127A Lavender Hill

Character and Appearance

21. The call box would be located close to the kerb adjacent to a busy road. It would be in front of one of many commercial properties along Lavender Hill. The streetscene already includes kiosks/call boxes, street signage, lighting and bike racks along with signage and storage for the commercial units close to the appeal site. The call box would further add to the significant amount of visual street clutter in the immediate locality. Given its height, steel frame and canopy roof, the proposal would only serve to add to an already disorderly streetscene in this part of Lavender Hill.
22. In light of the above, the siting and appearance of the proposed call box would have a harmful effect upon the character and appearance of the area.

Pedestrian environment

23. Located on a section of Lavender Hill with primarily commercial frontage there was a fairly constant pedestrian footfall even during mid afternoon. While I note the appellants estimated footfall figures, due to the range of shops and other facilities along Lavender Hill I would expect these flows to be even greater at peak hours. The built features on the street are located approximately in line with the proposed call box. Nonetheless, there is signage and outside displays of goods fronting shops that restricts the usable width of the pavement. These impede pedestrian flow at present.
24. The effect of the proposed call box would be likely to further impair the free flow of pedestrian movement by extending the narrowed channel of pavement. Moreover, it would create an additional visual obstruction closer to the nearby junction than existing features and close to road signage. The call box would hinder inter-visibility at the nearby junction. The site specific circumstances of the appeal proposal justify a departure from Transport for London standards and best practice in relation to footpath accessibility on this occasion.
25. The appeal proposal would adversely affect the safe and efficient movement of pedestrians.

Appeal C - Battersea Bridge Road adj. Musgrave Court

Character and Appearance

26. The call box would be located near to the kerb, in line with much of the existing street furniture that includes lighting, a bin, CCTV column, signage and a bus stop. Further from the nearby junction and beyond the bus stop is an InLink BT facility of comparable height and of similar metallic colour. However, the proposed call box would have a larger footprint and top heavy design. Moreover, it would be far closer to other existing street furniture and views from the north would not be screened by the street trees further along the

road. In addition, from the north the call box would be viewed with the collection of signage and traffic columns at the nearby junction. It would reduce the existing visual spacing between large structure along the street and make this part of the street appear cluttered.

27. As such, the siting and appearance of the proposal would have a harmful effect upon the character and appearance of the area.

Pedestrian Environment

28. The appeal site is between a bus stop and pedestrian crossing. Nevertheless, there is a generous footway and there are no obstructions in the central part of the pavement. The bin near the bus stop would already channel the pedestrian flow to and from the bus stop. This would provide sufficient space to accommodate the call box without impediment to pedestrian flow along or across the street even with a high level of footfall. There is no compelling evidence to lead me to conclude that the scheme would create increased difficulty for any pedestrians, cyclists or other users of the highway.
29. The proposed call box would not adversely affect the safe and efficient movement of pedestrians.

Appeal D - 38 Balham High Road

Character and Appearance

30. The call box would be located centrally within a wide and generally open part of the pavement. Although there is a bench adjacent to the site, this is low level and far less conspicuous than the proposed call box would be. Moreover, the majority of the existing street furniture is aligned close to the kerb edge. Given the scale and proportions of the proposed bulky call box it would become a prominent feature and erode the sense of space at this prominent corner location.
31. As such, the siting and appearance of the proposal would have a harmful effect upon the character and appearance of the area.

Pedestrian environment

32. The wide pavement would provide considerable room for pedestrians to be able to pass the site without difficulty. Even though the street may experience a high level of pedestrian usage, it is in an open area visible from some distance and there is already a bench near to the site that pedestrians would need to avoid. There is no compelling evidence to lead me to conclude that the scheme would create increased difficulty for any pedestrians, cyclists or other users of the highway.
33. Thus, the proposal would not adversely affect the safe and efficient movement of pedestrians.

Appeal E - 161 Balham High Road

Character and Appearance

34. The call box would be sited in a part of the street where there are a number of lampposts, bus stops, signage, litter bins, cycle racks, bollards and other phone kiosks/call boxes. There is a significant amount of visual clutter already present within this part of Balham High Road.
35. It would be sited near the kerb as are many of the existing features. Nonetheless, the proposed addition of another substantial and bulky feature in this location would add to the existing visual clutter. The colour would also jar with the existing features and draw attention to the proposed call box.
36. Therefore, the siting and appearance of the call box would have a harmful effect upon the character and appearance of the area.

Pedestrian environment

37. The site is located along a busy part of the street given the numerous commercial premises nearby and its proximity to different public transport nodes. I observed a high and constant flow of pedestrians at my visit.
38. Existing features that are approximately in line with the proposal already restrict the usable width of the pavement. However, the considerable physical obstruction of the call box would further impair the free flow of pedestrian movement by extending the narrowed channel of pavement. Being closer to the bus stop than the features to the south, it would add to the congestion from those trying to cross the road and coming to and from the bus stop. In this instance, and as result of the site specific circumstances of the appeal proposal, a departure from Transport for London standards and best practice in relation to footpath accessibility is justified on this occasion.
39. The call box would adversely affect the safe and efficient movement of pedestrians.

Appeal F - 151 Balham Hill

Character and Appearance

40. In this part of the street the majority of the significant features that could be considered as street clutter are lampposts and occasional signage. These as slim structures in contrast to the proposed bulk and mass of the call box. There is an existing call box very close to the site of the proposed one. This appears as an incongruous feature and the proposal would only serve to introduce a further physical and substantial discordant feature in this part of the street.
41. Thus, the siting and appearance of the call box would have a harmful effect upon the character and appearance of the area.

Pedestrian Environment

42. The pavement widens towards the nearby junction and from my site visit the level of pedestrian movements past the site was not significant. Although the

proposal would be a bulky structure and encroach on the pavement it would be positioned adjacent to an existing call box. Approaching from the south there would be open views of the call box. There is no compelling evidence to lead me to conclude that the scheme would create difficulty for pedestrians or other users of the highway to be able to pass, or be an unacceptable hinderance to inter-visibility from the nearby junction.

43. Thus, the proposal would not adversely affect the safe and efficient movement of pedestrians.

Appeal G - 194 Balham High Road

Character and Appearance

44. There is already a significant amount of visual clutter in this part of Balham High Road. Lampposts, signage, bike racks, bins and other call boxes are already present along this stretch of the street. These include tall features. However, the top heavy design and bulky size of the proposal, in a prominent location, closer to the nearby junction than the other call boxes, would only add to what is a considerable amount of visual clutter in the immediate locality.
45. It would unacceptably tip the balance in terms of the amount of pavement structures and other clutter within the street scene.
46. Therefore, the siting and appearance of the call box would have a harmful effect upon the character and appearance of the area.

Pedestrian Environment

47. The call box would be sited where the pavement widens. It is of sufficient width to accommodate the call box without causing an impediment to the pedestrian flow of any users along or across the street even with the high level of pedestrian movements I saw on site in this part of the street.
48. Although the proposal would be a bulky structure and encroach on the pavement, it would be positioned close to existing features that are of a similar distance from the edge of the kerb. There is no compelling evidence to lead me to conclude that the scheme would create increased difficulty for any pedestrians, cyclists or other users of the highway.
49. As such, the proposal would not adversely affect the safe and efficient movement of pedestrians.

Appeal H - York Road adj. Wilberforce House

Character and Appearance

50. There are existing features such as lampposts, bins and a bus stop further along York Road than site of the proposed call box. Occasional street trees and the adjacent greenery soften the appearance of the existing features. However, the scheme would introduce a solid, tall and bulky element of street furniture into a currently vacant part of the street that is relatively open. It would be a discordant element of clutter within the street scene visible from several angles along the approach to the site from various directions at the nearby junction.

51. As such, the siting and appearance of the call box would have a harmful effect upon the character and appearance of the area.

Pedestrian Environment

52. The call box would narrow the pavement where there are currently no nearby features doing so. However, while I note the presence of bus stops along the street, these are some distance from the site. Although there were some pedestrian movements along the street at the time of my visit, they were not considerable. I appreciate that at other times the pedestrian flow maybe greater. Nevertheless, this part of York Road would remain relatively open and the call box would be a comparable distance from the kerb as existing features. There is no compelling evidence to lead me to conclude that the scheme would create increased difficulty for any pedestrians, cyclists or other users of the highway.
53. As such, the proposal would not adversely affect the safe and efficient movement of pedestrians.

Appeal I - 250 York Road

Character and Appearance

54. The call box would be set at the back of a wide, generally open area of pavement. Although there is a bus stop further along York Road, the proposal would be very prominent given the absence of any nearby street furniture of a comparable scale. As a result of the bulk and proportions of the proposed call box it would become a prominent feature. It would be discordant with the otherwise spacious appearance of this part of York Road.
55. As such, the siting and appearance of the proposal would have a harmful effect upon the character and appearance of the area.

Pedestrian Environment

56. The pavement widens towards the nearby junction and from my site visit the level of pedestrian movements past the site were not significant. Although the proposal would be a bulky structure and encroach on the pavement it would be positioned away from the kerb. There would be generous space between the call box and the kerb to allow pedestrians to pass unhindered even if there were a far greater footfall than I saw during my visit.
57. There is no compelling evidence to lead me to conclude that the scheme would create difficulty for pedestrians or other users of the highway to be able to pass, or that it would be an unacceptable hinderance to inter-visibility from the nearby junction.
58. Therefore, the proposal would not adversely affect the safe and efficient movement of pedestrians.

Appeal J - 154 Battersea Park Road

Character and Appearance

59. There is already a considerable amount of street furniture near the site. This includes lampposts, cabinets, signage and an electric car charging point. The position of these varies within the pavement. However, the proposed call box would be of a bulk and height unlike any of the existing street furniture. The proportions and appearance of it would only serve to introduce a substantial built feature into an already cluttered street scene.
60. Thus, the siting and appearance of the call box would have a harmful effect upon the character and appearance of the area.

Pedestrian Environment

61. There are a number of commercial properties in the area and a school close to the appeal site. At the time of my visit in mid-afternoon, there were considerable pedestrian movements past the site. The pavement is wider at the appeal site than by the electric charging point. Nonetheless, the amount of existing street furniture and their distribution across the pavement hinders the pedestrian desire lines and restricts the usable width of the pavement. The effect of the proposed call box would be to further impair the free flow of pedestrian movement by extending the narrowed channel of pavement.
62. The site specific circumstances of the appeal proposal justify a departure from Transport for London standards and best practice in relation to footpath accessibility on this occasion.
63. The scheme would adversely affect the safe and efficient movement of pedestrians.

Appeal K - 491 Battersea Park Road

Character and Appearance, including designated heritage assets

64. The call box would be sited in a part of the street where there is presently a high level of street furniture including lampposts, bus stop, signage, and litter bins. There is a significant amount of visual clutter already present within this part of the road.
65. It would be sited near the kerb as are many of the existing features. Nonetheless, the proposed addition of another substantial and bulky feature in this location would add to the existing visual clutter. The appearance would jar with the existing features and draw attention to the proposed call box.
66. The appeal site is close to the Battersea Park Conservation Area (CA). It is a primarily residential area surrounding the large green areas of the park itself. Many of the properties opposite the site, and within the CA, are listed buildings and exhibit a range of traditional architectural styles and features. I have found that there would be harm to the street scene. Nevertheless, given the urban street context and modern buildings adjacent to the appeal site and the presence of other features, there would be no diminishing effect on the

appreciation of the CA or the listed buildings. Their setting and significance would be preserved.

67. Notwithstanding this, the siting and appearance of the call box would have a harmful effect upon the character and appearance of the area.

Pedestrian Environment

68. The site is located along a busy part of the street with numerous commercial premises and a bus stop nearby. I observed a high and constant flow of pedestrians including those using the bus stop.
69. Existing features located approximately in line with the proposal already restricts the usable width of the pavement. However, the considerable physical obstruction of the call box would further impair the free flow of pedestrian movement by extending the narrowed channel of pavement. The scheme would add to the congestion from those trying to cross the road and coming to and from the bus stop near the site. In this instance, and as result of the site specific circumstances of the appeal proposal, a departure from Transport for London standards and best practice in relation to footpath accessibility is justified on this occasion.
70. Therefore, the call box would adversely affect the safe and efficient movement of pedestrians.

Appeal L - Adj 154 Balham High Road

Character and Appearance

71. The call box would be sited in a part of the street where there are a number of existing street features including lampposts, signage, litter bins, cycle racks, bollards and other phone kiosks/call boxes. There is a significant amount of visual clutter already present within the road.
72. It would be sited near the kerb as many of the existing features are. Nonetheless, the nearby call box is set back from the kerb and the proposal would introduce a substantial and bulky feature where many existing ones are of a smaller scale. The call box would add to the existing visual clutter and the appearance would also jar with the features already present, drawing attention to the proposal.
73. Therefore, the siting and appearance of the call box would have a harmful effect upon the character and appearance of the area.

Pedestrian Environment

74. The call box would be located near to several junctions and crossing points along a section of Balham High Road with primarily commercial frontage. There was a fairly constant pedestrian footfall even during mid afternoon. While I note the appellants estimated footfall figures, due to the range of shops, restaurants and other facilities along this part of the road I would expect these flows to be even greater at peak hours. The built features on the street are located approximately in line with the proposed call box. Nonetheless, these

and the existing call box close by on the inner side of the pavement already restrict the usable width of the pavement. The proposal would further impair the free flow of pedestrian movement by adding another structure of a large footprint.

75. The site specific circumstances of the appeal proposal justify a departure from Transport for London standards and best practice in relation to footpath accessibility on this occasion.
76. Therefore, the appeal proposal would adversely affect the safe and efficient movement of pedestrians.

Conclusions

77. In all cases I have found that the siting and appearance of each proposed call box would have a harmful effect on the character and appearance of the area. Moreover, in the case of Appeal A, I conclude that it would fail to preserve the setting of a nearby non-designated heritage asset. Whilst I found that there would not be harm to the pedestrian environment in every case, this would be a neutral factor which does not weigh for or against the proposal.
78. For the reasons set out above, and having regard to all matters raised, I conclude that the appeals should be dismissed.

Stuart Willis

INSPECTOR