
Appeal Decision

Site visit made on 22 July 2019

by S Poole BA(Hons) DipArch MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2019

Appeal A, Ref: APP/X5210/W/18/3211165

Tottenham Court Road in front of Warren Street Station, London NW1 3AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden
 - The application 2018/0309/P, dated 21 January 2018, was refused by notice dated 14 March 2018.
 - The development proposed is described on the application form as a call box.
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Appeal B, Ref: APP/X5210/W/18/3211174

Euston Road adjacent Warren Street Station, London NW1 3AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden
 - The application 2018/0315/P, dated 21 January 2018, was refused by notice dated 15 March 2018.
 - The development proposed is described on the application form as a call box.
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Decision

1. Appeals A and B are dismissed.

Procedural Matters

2. The appeal sites are located in close proximity to each other and the proposals are for the same form of development. In addition, the Council's reasons for refusal are the same in both cases. Consequently, whilst I have considered each proposal on its individual merits, I consider it appropriate to issue a single decision covering the two appeals.
3. Differing versions of the site addresses have been given on the application and appeal forms and on the decision notices. In the interests of clarity I have used the descriptions that best describe the locations of the proposed call boxes in the banner headings above.
4. The application drawings do not explicitly indicate how the proposals before me would be orientated, namely whether the solid walls would be parallel or at right angles to the pavement edge. In the absence of this information I have deemed it necessary to take into account all scenarios in my assessment of the proposals.

5. As an electronic communications code operator, the appellant benefits from deemed planning permission for call boxes that fall within the permitted development rights of Schedule 2, Part 16, Class A, paragraph A.1 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), subject to the prior approval requirements under paragraph A.3. The appellant applied to the Council on that basis. The Council determined that prior approval was required and it was refused.
6. The Council's decisions refer to various development plan policies. However, the principle of development is established by the GPDO and prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO does not require regard be had to the development plan. The provisions of the GPDO require a proposal of this type to be assessed solely on the basis of its siting and appearance, taking into account any representations received. Nonetheless, I take account of the policies and guidance cited by both parties in so far as they are relevant to matters of siting and appearance.
7. A revised National Planning Policy Framework was published in February 2019. I am satisfied that the revised Framework does not differ from previous versions in respect of the substance of the matters before me and have not therefore deemed it necessary to seek comments on the revised Framework. Like earlier versions of the Framework, the revised version supports high quality communications infrastructure, including applications for prior approval, and requires local planning authorities determine applications on planning grounds. As the principle of development is established by the GPDO, considerations such as the need for the call boxes are not relevant matters.
8. The determination of these appeals was delayed due to a High Court judgement¹. The judgement concluded that the telephone kiosk in question was for the dual purpose of advertisement display and telecommunications use and therefore outside the scope of Schedule 2, Part 16, Class A of the GPDO. The information before me in these cases does not clearly show that the proposed call boxes would serve a dual purpose. I am therefore satisfied that the proposals fall within the scope of Schedule 2, Part 16, Class A of the GPDO.

Main Issue

9. The main issue is whether or not approval should be given in respect of the siting and appearance of the proposed call boxes, with particular regard to the effects on the character and appearance of the area and on highway and pedestrian safety.

Reasons

10. The appeal sites are located within the pavement outside Warren Street Station. Appeal site A is directly in front of one of the two entrances to the station that face Tottenham Court Road and Appeal site B is to the side of the station, which faces Euston Road. The junction between the two roads is a heavily trafficked intersection surrounded by prominent commercial buildings.
11. The proposed call boxes would have canopies measuring approximately 1.325m by 1.125m that would be supported by a full-width solid wall, that would house the telephone, and two 0.55m largely glazed side elements, resulting in a largely open structure with an overall height of about 2.6m. The call boxes

¹ Westminster CC v SSHCLG & New World Payphones Ltd [2019] EWHC 176 (Admin)

- would be constructed of powder coated steel, polycarbonate and toughened glass and would include a solar panel on the roof.
12. I note that the call boxes would be significantly wider than the enclosed kiosk-type call boxes that are prevalent in the area, would include solid walls similar in size to those seen at the ends of bus shelters in the area and would have particularly prominent and boxy canopies. In my judgement, due to their size and design, these structures would not represent a discrete or high-quality form of street furniture.
 13. The portion of pavement between the main entrance to the station and Tottenham Court Road is occupied by a permanent retail kiosk and a pair of waste bins. The former is a relatively large structure that occupies a significant proportion of the pavement when open for business. Appeal proposal A would be situated between the kiosk and the bins. It would further enclose the already largely enclosed main entrance to the station and add a second substantial structure next to the roadway. Due to its siting I therefore conclude that the proposal subject to appeal A would have an unacceptable effect on the character and appearance of the area.
 14. The area of pavement to the side of the station, at the junction between the two major roads includes lampposts and traffic light posts next to the road, together with a set of cycle stands and some telecommunication cabinets but is otherwise a relatively open area that contributes to the character and appearance of this busy area. There are also a cluster of call boxes a short distance away which are relatively discreetly positioned between substantial trees.
 15. Due to its exposed location and design the proposed call box subject to appeal B would be a far more prominent and incongruous element than the nearby call boxes and would compromise, and cause harm to, the openness of the area of pavement at the junction between Tottenham Court Road and Euston Road. Due to its siting I therefore conclude that the proposal subject to appeal B would have an unacceptable effect on the character and appearance of the area.
 16. Turning to highway and pedestrian safety, Warren Street Station is a very busy central London underground station that is on both the Victoria and Northern lines. At the time of my visit during the morning rush hour the number of people leaving the station was very high. Whilst the call box under appeal A would be sited in an area that is relatively sparsely used by pedestrians leaving and approaching the station entrance – largely due to the nearby retail kiosk – it provides a much needed area for use at peak times by people wanting to step away from the dense pedestrian flows.
 17. Based on my site observations, and the information before me, I consider that, due to its siting, the proposal subject to appeal A would cause an obstruction to pedestrian movement. At best, this would cause inconvenience and annoyance to pedestrians and, at worst, it could lead to accidents if people step into the nearby busy Tottenham Court Road. I therefore conclude that this proposal would harm pedestrian safety.
 18. As the proposal subject to appeal B would be sited away from the neighbouring roads and within a wide area of pavement I am satisfied that it would not result in harm to pedestrian safety.

19. I conclude that, due to their siting, both proposals would have a harmful effect upon the character and appearance of the area neighbouring Warren Street Station. I also find that the siting of the proposal subject to appeal A would also unduly prejudice the safety of pedestrians.

Other matters

20. The Council's third and fourth reasons for refusal relate to crime and antisocial behaviour and wheelchair accessibility. As the GPDO requires proposals for call boxes to be assessed solely on the basis of their siting and appearance, the third and fourth reasons for refusal do not require consideration.
21. The appellant has referred to a number of appeal decisions in support of the appeals. However, as each appeal relating to prior approval of a proposed call box is necessarily assessed on its individual merits having regard to its particular siting, context and circumstances, I attach limited weight to the appeal decisions referred to.

Conclusion

22. For the reasons set out above, and having regard to all other matters raised, I conclude that appeals A and B should fail.

S Poole

INSPECTOR