



Appeal Decisions

Site visit made on 2 July 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th July 2019

ALL APPEALS

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against refusals 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 appeals are made by Maximus Networks Ltd against the decisions of the Council of the London Borough of Camden.
 - The development proposed in each case is described as the installation of a call box.
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Appeal A Ref: APP/X5210/W/18/3211183

Pavement outside 69-70 Russell Square, London WC1B 5BA

Grid Reference Easting:530209 and Northing:182003

- The application Ref 2018/0318/P, dated 21 January 2018, was refused by notice dated 15 March 2018.
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Appeal B Ref: APP/X5210/W/18/3211175

Pavement outside 75 Kingsway, London WC2B 6SR

Grid Reference Easting:530582 and Northing:181335

- The application Ref 2018/0316/P, dated 21 January 2018, was refused by notice dated 15 March 2018.
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Appeal C Ref: APP/X5210/W/18/3211167

St. Giles High Street adjacent Central St Giles Piazza, London WC2H 8AG

Grid Reference Easting:530039 and Northing:181301

- The application Ref 2018/0325/P, dated 21 January 2018, was refused by notice dated 14 March 2018.
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Appeal D Ref: APP/X5210/W/18/3211178

97 Southampton Row, London WC1B 4HH

Grid Reference Easting:530277 and Northing:181902

- The application Ref 2018/0317/P, dated 21 January 2018, was refused by notice dated 15 March 2018.
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Decisions

1. Appeals A, B, C and D are dismissed.

Procedural Matters

2. The site addresses have been taken from the application forms or from the Local Planning Authority's (LPA) decision notices, whichever most accurately describes the allocation of the appeal site.
3. Both parties have been given the opportunity to comment upon the High Court ruling of Westminster CC vs SSHCLG & New World Payphones Ltd

[2019] EWHC 176 (Admin) as this was published after the parties submitted their evidence. My own assessment is that there is nothing contained within the evidence or shown in the structure of the call box proposed in each of the appeals which would indicate that the call box would have a dual purpose. As a result, the public call box's proposed would fall within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

4. The LPA states that in relation to some of these cases that there are other telephone kiosks nearby and therefore there is no need for additional ones. Article 3(1) and Schedule 2, Part 16, Class A.3(4) of the GPDO 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 has been made on the same basis. Therefore, whilst the appellant has referred to the purported benefits of the proposed kiosk, I have not taken these matters into account other than in respect of heritage assets where paragraph 196 of the National Planning Policy Framework (the Framework) advises "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".
5. 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 GPDO (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 these appeals.
6. Whilst the Council has included a fourth reason for refusal relating to lack of access for wheelchair users in each location, this is outside the scope of the appeals.

Planning Policy

7. 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 be had to the development plan. I have had regard to the policies of the development plan, namely policies A1, C5, D1, and T1 of The London Borough of Camden Local Plan (2017) (LP) and the advice in the Camden Planning Guidance, the Camden Streetscape Design manual (DM), guidance provided by Transport for London¹ (TfL)) and policies 6.9(B) and 6.10(B) of The London Plan (2016) (TLP), only in so far as they are a material consideration relevant to matters of siting and appearance.
8. The Framework was revised in February 2019, after the Council determined the applications. Nevertheless, the policies set out in the Framework are capable of being a material consideration. As the policies in relation to telecommunications have not changed significantly, I have had regard to the

¹ Transport for London's Pedestrian Comfort Guidance for London (2010)

Framework in my decision and I am satisfied this has not prejudiced either party.

The Proposals

10. The design and specification of the call box would be identical in each appeal, measuring approximately 1.32 metres by 1.11 metre, with an overall height of roughly 2.6 metres. Their construction would use clear toughened glass and steel frame, using no distinguishing colours, lettering or illumination and there would be a solar panel on the roof which would be a benefit. The call boxes would have three sides, two of which are narrow in width and include transparent panels making them visible to the public and to surveillance cameras, whilst providing protection from the elements. I note the guiding design principles that have been applied by the appellant company for each appeal scheme, having regard to several appeal decisions². That said, I have considered the proposals on their own merits and based on the submitted photographs which show a red square indicating the location of each proposal, given that the appellant has not provided details of the proposed call boxes orientation for each appeal.

Main Issues

11. The main issues in Appeals A, B, C and D are the effect of the siting and appearance of the electronic communication apparatus (call box) on:
 - The street scene including in some of the proposals in terms of whether they would preserve or enhance the character or appearance of the Conservation Areas (CA) within which they are located or the significance of any Listed Buildings (LB) within whose settings they may be located; and
 - The safe and efficient operation of the highway.

Reasons

Location of appeal sites

12. Appeals A and D are located within or immediately adjacent to the Bloomsbury Conservation Area (BCA) and are in close proximity to the grade II Russell Square gardens and the eight storey, grade II* Russell Square Hotel which is a prominent red brick, landmark building in this location. Russell Square and its gardens creates a sense of openness, with its mature trees and peripheral landscaping lessening the impact of the traffic in its immediate vicinity.
13. This is an area which experiences high pedestrian flows as there are commercial uses along the road including a number of hotels and it provides access to the Russell Square underground station located nearby.
14. Appeal B is located on the tree lined Kingsway, within the Kingsway Conservation Area (KCA). KCA in this location is characterised by its original layout and the ornate architectural styles, dating from the early twentieth century and many of the buildings retain their original design features.

² Appeal references: AAP/X5210/A/12/2178982;APP/X5210/A/12/2178982;APP/X5990/A/12/2187244

Kingsway in this area experiences high pedestrian flows due to its commercial location and its approach to Holborn underground station.

15. Appeals A, B and D are located in CA and the statutory requirements of Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 require that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area. These appeals have therefore been determined on that basis.
16. Appeal C is located on St Giles High Street, adjacent to Central St Giles Piazza and is relatively close to, but not within, the adjacent Seven Dials (Covent Garden) Conservation Area (SDCA).

Appeal A - Pavement outside 69-70 Russell Square, London WC1B 5BA

Street scene

17. The proposed call box would be located on the pavement on the opposite side of the road to Russell Square Gardens in front of commercial uses, which include a number of cafés and restaurants which have placed tables and chairs on the pavement. Nearby is the Imperial Hotel which has a seating area which projects onto the pavement. In close proximity and in a similar position on the pavement as the proposed call box, is an existing telephone kiosk, traffic sign posts, traffic bollards and lighting columns.
18. The proposed call box would be in a prominent location and due to the food establishments placing tables and chairs on the pavement, it would be reduced in width. The call box would add further street clutter in this location, which already has a kiosk and variety of other street furniture in very close proximity.
19. The cumulative effect of the addition of the proposed call box in this prominent location would have an adverse impact on the openness of Russell Square, which is one of its defining features, and would detract from the setting of the Russell Square Hotel. As a result, there would be a detrimental effect on the character and appearance of the BCA and the benefit of the additional proposed call box would not outweigh the less than substantial harm to the setting of the LB and the CA.
20. The proposed call box in this location would be contrary to the aforementioned policies A1; C5; D1 and T1 of the LP and the DM.

Highway safety

21. The proposed call box would reduce the width of the pavement in this location, close to the junction with Guildford Street where pedestrians congregate to cross the road to go towards the underground station or the cycle stands which are located in the central reservation of the road. Based on my own site visit observations, the reduction on the clear footway would reduce the level of pedestrian comfort and result in overcrowding and some partial obstruction to visibility splays. I consider that the call box would hinder the free movement of the high flows of pedestrians and would have a detrimental effect on the safety and efficient operation of the highway.

22. On that basis the proposed call box would be contrary to the aforementioned policies C5 and T1 of the LP, policies 6.9(B) and 6.10(B) of The London Plan (2016) (TLP) and TfL's guidance.

Appeal B - Pavement outside 75 Kingsway, London WC2B 6SR

Street Scene

23. The proposed call box would be located on the pavement close to a restaurant and other food establishments which have tables and chairs extending onto the pavement. The pavement experiences high pedestrian flows due to the adjacent commercial uses and its proximity to Holborn underground station. There are mature trees at regular intervals along the edge of the pavement and in close proximity to the proposed call box location there is an existing kiosk, a post box, lamp posts at regular intervals, litter bins, traffic lights and traffic signs at junctions with Wild Court and Great Queen Street.
24. The proposed call box would be in a prominent location within the KCA. There is already a substantial amount of street furniture along this section of Kingsway and the addition of the proposed call box, due to its size and design would add further to the street clutter. This would result in a harmful effect to the appearance of the wider street scene and the benefit of the proposed call box would not outweigh the less than substantial harm to the KCA as a whole.
25. The proposed call box in this location would be contrary to the aforementioned policies and guidance A1;C5;D1 of the LP and the DM.

Highway Safety

26. The section of the pavement in this location experiences high pedestrian flows and the siting of the proposed call box would reduce the pavement width significantly. Adjacent to the location of the proposed call box are a number of restaurants and café's which place tables and chairs on the pavement further restricting the effective pavement width available to pedestrians, during opening hours.
27. The proposal would also obstruct and impede kerbside activity including activities of delivery vehicles, taxis and refuse and recycling collections. Overall, I consider that the proposed call box would hinder the high pedestrian flow experienced in this location and would have a detrimental effect on the efficient operation of the highway and would be contrary to the aforementioned policies T1 of the LP, 6.9(B) and 6.10(B) of the TLP and guidance provided by TfL.

Appeal C - St. Giles High Street adj. Central St Giles Piazza, London WC2H 8AG

Street Scene

28. The appeal location is on the pavement adjacent to No 1 St Giles High Street, which is part of the St Giles development that comprises of a range of commercial uses. The site is close to the Tottenham Court Road underground station, which the Council states is one of the busiest pedestrian corridors in the Borough. It borders the SDCA and the Council states that it is within a

zone subject to the major public realm renewal West End Project, but I note that no evidence has been submitted in this regard.

29. The effect of the proposed call box on the visual amenity of the SDCA would in my view be limited as it would not be immediately adjacent to its setting. Hence, the proposal would not lead to a visual impact on its setting. However, the proposal would add clutter to the street scene at a point which is currently, relatively free of street furniture, except for street lighting and a plinth providing information on the uses located within the commercial development. The design and location of the proposed call box in this location would appear incongruous and would be detrimental to the overall character and appearance of the area and would be contrary to the aforementioned policies and guidance A1;C5;D1 of the LP and the DM.

Highway Safety

30. The proposed call box would reduce the pavement width. However, based on my own observations the pavement in this location is relatively wide and would not be adversely affected by the installation of the call box or hinder the high pedestrian flow experienced in this location and as a result the development proposed would not be contrary to the aforementioned policies T1 of the LP, 6.9(B) and 6.10(B) of the TLP and guidance provided by TfL.

Appeal D – Pavement outside 97 Southampton Row, London WC1B 4HH

Street Scene

31. The appeal location is adjacent to No 97 Southampton Row and is adjacent to retail units and restaurants on the ground floor of Cranfield House. The site is located in a prominent location within the BCA which experiences high traffic and pedestrian flows. There is a wide range of existing street furniture items nearby including cycle stands, lamp posts, traffic signs, litter bins and restaurants have placed table and chairs on the pavement during opening hours, some within low level enclosures which incorporate planting. An entrance to an underground car park is nearby.
30. The cumulative effect and addition of the proposed call box would add to the clutter of street furniture in the area and would have a significant detrimental visual effect on the character and appearance of the BCA. In the location proposed, its design and appearance would appear incongruous and its benefits would not outweigh the less than substantial harm to the BCA and would be contrary to the aforementioned policies and guidance A1;C5;D1 of the LP and the DM.

Highway Safety

31. This section of the pavement experiences high pedestrian flows due to the commercial location and its approach to Russell Square underground station. Given its proximity, the proposal would affect the visibility of vehicle drivers exiting the nearby car park, compromising the safety of pedestrians on the pavement and other road users. Therefore, I consider that there would be a detrimental effect on the safety and efficient operation of the highway and would be contrary to the aforementioned policies T1 of the LP, 6.9(B) and 6.10(B) of the TLP and guidance provided by TfL.

Other Matters

32. I note that the appellant has stated that the transparency of the call box would discourage anti-social behaviour and that solar panels on the roof of each call box will power the payphone. The provisions of the GPDO (as amended) require the proposed development to be assessed solely on the basis of its siting and appearance. Therefore, whilst the appellant has referred to these purported benefits of the proposed call box, I have not taken these matters into account.

Conclusions

33. With regard to the first main issue, for the reasons given above and in Appeals A, B, C and D, I conclude that the siting of the proposed call boxes would have a harmful effect on the character and appearance of the area. In respect of Appeals A, B and D there would be less than a substantial harmful effect on the CA within which they are located, which would not be outweighed by the benefits of the proposed call boxes. Further, in respect of Appeal A, there would be less than substantial harm to the setting of the LB's in the vicinity immediate vicinity which would not be outweighed by the benefits of the proposed call box.
34. With regard the second main issue, for the reasons set out above, I have concluded that in Appeals A, B, and D that the siting of each proposed call box would have a detrimental effect on the safe and efficient operation of the highway. In respect of Appeal C, whilst there was no adverse effect to highways and pedestrian safety, this does not outweigh the harm to the first main issue of this appeal.
35. For the reasons set out above, and having regard to all of the matters raised, I conclude that the appeals should be dismissed.

Paul Wookey

INSPECTOR