



Appeal Decision

Site visit made on 9 September 2019

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2019

Appeal Ref: APP/H5960/W/19/3229173

**Public Highway, Upper Richmond Road Corner Charlwood Road,
London SW15 6TH**

- 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 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 Wandsworth.
 - The application Ref 2018/4768, dated 1 October 2018, was refused by notice dated 22 November 2018.
 - The development proposed is a public call box.
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Decision

1. The appeal is dismissed.

Procedural Matter

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.

Planning Policy

3. 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 draft London Plan 2017 only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issues

4. The Council considers that the development would not amount to permitted development in part because the appellants have not demonstrated that it is required for the purpose of the operator's electronic communications. The Council's report makes it clear that this view is based on the need for the call box. The National Planning Policy Framework (the Framework) requires that applications for communications infrastructure are determined on planning grounds only. Therefore, matters such as the need for the development are not relevant to the determination of this appeal. Therefore, the main issues are:

- The effects of the siting and appearance of the development on the character and appearance of its surroundings; and
- The effects of the siting of the development on the pedestrian environment, with particular regard to convenience and safety.

Reasons

Character and appearance

5. The call box would be located on the pavement adjacent to an area which appears to have been recently laid out as public amenity space. This part of Upper Richmond Road is commercial in character and the high level of foot traffic gives it a sense of a busy urban thoroughfare. Amongst other street furniture in the vicinity of the site are two benches, cycle parking, a planter and trees, cabinets and a recycling pod. These features all fall generally within the pavement. Within the green space is a large freestanding digital advert panel which dominates the street scene. However, as a result of its position the signage panel does not contribute towards the existing cluttered appearance of the pavement.
6. The appeal scheme proposes the erection of a two-sided panel with angled roof which is typical of the type of kiosk found in urban areas. Nevertheless, it would introduce a large new feature into an environment where there is an existing high level of street furniture within the pavement and this would be harmful to the character and appearance of this part of Upper Richmond Road.
7. I conclude that the siting of the development would have a harmful effect on the character and appearance of the surrounding area. Consequently, the proposal fails to accord with Policies 6.10 and 7.5 of the London Plan (2016), Policy D7 of the Draft London Plan 2017, Policy IS3 of the Wandsworth Local Plan Core Strategy (2016) (the Core Strategy) and Policies DMS1 and DMS9 of the Wandsworth Local Plan Development Management Policies Document (2016) (the DMPD) These policies, jointly, seek to maintain uncluttered public spaces that provide high quality pedestrian environments.
8. I do not find Policy PL3 of the Core Strategy which relates to transport schemes and funding to be directly relevant to the appeal scheme.

Pedestrian environment

9. On the basis of the appellants' submissions the call box would be positioned in front of the existing benches and the width of the pavement which would remain free of obstruction would be greater than that recommended by the Transport for London Pedestrian Comfort Guidance (TfL Guidance). Regardless of the width of the unobstructed footway, I have very limited specific evidence to demonstrate why the proposed siting would be harmful to highway safety, with particular regard to pedestrian movement. Although there are other items of street furniture, the proposed call box would also be readily visible within the street scape and the footway would be of a width that would safely retain its functionality. The layout would also broadly comply with the TfL Guidance.
10. The Council considers that as a detailed plan was not submitted to show the precise location of the call box, it cannot be determined how much of the retained pavement would be useable for pedestrian activity. Nevertheless, on

the basis of the evidence before me and my observations on site, I find the likely impacts of the development on pedestrian movements to be satisfactory.

11. I conclude that the siting of the appeal scheme would not have a harmful effect on the pedestrian environment, with particular regard to convenience and safety. On this basis the development would accord with Policies 6.10 and 7.5 of the London Plan (2016) and Policies DMS1 and DMT1 of the DMPD. Taken together, these policies seek to reduce obstructions and provide safe and suitable access for all people.

Other Matters

12. The National Planning Policy Framework supports the expansion of electronic communication networks due to the positive effect they have on economic growth and social well-being. These economic and social benefits therefore weigh in favour of the proposal. However, due to the scale of the proposal, these benefits would only be limited and consequently, they do not outweigh the demonstrable harm that I have identified above.
13. Following the Court's judgment in Westminster CC v SSHCLG & New World Payphones Ltd [2019] EWHC 176 (Admin) there is a requirement to ensure that a proposal is solely for the purpose of the operator's electronic network. The design of the call box includes a glass panel on the opposite side of the structure to the phone pocket, which is denoted as a non-illuminated display panel. The appellants describe this panel as allowing access for maintenance and there are no details of the nature of what would be displayed on the panel. In addition, the proposals are not accompanied by an application for advertisement consent.
14. I note the concerns in relation to the potential for advertisements. However, I have to assess the proposal based on the evidence that I have before me. On this basis, although advertisements are often a common feature on kiosks of this nature, there is no compelling case to confirm that advertisements would form part of the proposals. Consequently, I cannot be certain that the kiosks would provide a dual purpose.
15. The Putney Society has queried whether the development can be considered as 'permitted development' given the changes to Part 16 since the application was determined. The transitional and saving provisions set out in Part 5 of the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 allow for this consideration to be applied to appeals submitted before 25 May 2019 as is the case here.

Conclusion

16. For the reasons set out above the appeal is dismissed.

Sarah Dyer

Inspector