
Appeal Decisions

Site visit made on 2 September 2019 by Hannah Ellison BSc (Hons) MSc

Decision by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 October 2019

All Appeals

- The appeals are made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeals are made by Maximus Networks Ltd against the decision of the Council of the London Borough of Islington.
 - The development proposed in each case is installation of a public call box.
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Appeal A - Ref: APP/V5570/W/19/3229333

107-127 Seven Sisters Road, London, N7 7QG

Grid Reference Easting: 530842 and Grid Reference Northing: 186360

- The application Ref: P2018/3239/PRA, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal B - Ref: APP/V5570/W/19/3229336

249-253 Hornsey Road, London, N7 7RA

Grid Reference Easting: 530571 and Grid Reference Northing: 186563

- The application Ref: P2018/3241/PRA, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal C - Ref: APP/V5570/W/19/3229339

97 Seven Sisters Road, London, N7 7QP

Grid Reference Easting: 530775 and Grid Reference Northing: 186302

- The application Ref: P2018/3244/PRA, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal D - Ref: APP/V5570/W/19/3229340

341-345 Holloway Road, London, N7 0RN

Grid Reference Easting: 530606 and Grid Reference Northing: 185837

- The application Ref: P2018/3246/PRA, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal E - Ref: APP/V5570/W/19/3229408

474 Caledonian Road, London, N7 8TB

Grid Reference Easting: 530598 and Grid Reference Northing: 184989

- The application Ref: P2018/3247/PRA, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal F - Ref: APP/V5570/W/19/3229414

Parkhurst Road junction Holloway Road, London, N7 0RY

Grid Reference Easting: 530454 and Grid Reference Northing: 185976

- The application Ref: P2018/3251/PRA, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal G - Ref: APP/V5570/W/19/3229446

309 Holloway Road, London, N7 9DS

Grid Reference Easting: 530887 and Grid Reference Northing: 185534

- The application Ref: P2018/3262/PRA, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal H - Ref: APP/V5570/W/19/3229451

Camden Road adjacent Buckmaster House, London, N7 9SB

Grid Reference Easting: 530614 and Grid Reference Northing: 185800

- The application Ref: P2018/3273/PRA, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal I - Ref: APP/V5570/W/19/3229457

Holloway Road adjacent Cairns House, London, N7 9SA

Grid Reference Easting: 530726 and Grid Reference Northing: 185713

- The application Ref: P2018/3279/PRA, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal J - Ref: APP/V5570/W/19/3229459

282 Holloway Road, London, N7 6NJ

Grid Reference Easting: 530845 and Grid Reference Northing: 185614

- The application Ref: P2018/3281/PRA, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Decisions

1. Appeals A-J are dismissed.

Appeal Procedure

2. The site visits were undertaken by an Appeal Planning Officer whose recommendations are set out below and to which the Inspector has had regard before deciding the appeals.

Procedural Matters and Background

3. The appeals relate to proposals by Maximus Networks Ltd for the installation of a public call box at ten sites in the London Borough of Islington. The proposed apparatus is identical in each case. Therefore, in the interests of conciseness, I have dealt with all the appeal decisions in the same letter.
4. Whilst the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 amends the (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) by removing the permitted development right to install a public call box by, or on behalf of, an electronic communications code operator, this is subject

to transitional and saving provisions. Therefore, for the purposes of these appeals, which were validly made, the proposals fall to be considered against the provisions of Schedule 2, Part 16, Class A of the GPDO, which refers to development 'by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network'.

5. The proposals before me were refused by the Council on grounds relating to siting and appearance. However, the *Westminster*¹ judgement found that 'the judgement as to whether the kiosk, as applied for, comes within the scope of Class A has to be made before siting and appearance are considered' (paragraph 46). Whilst the Council determined the applications before the *Westminster* judgement was handed down, the appellant and Council have both commented on the bearing of the judgement upon the appeals. I have taken these comments into account in determining these appeals.
6. This judgement confirmed 'that the whole development for which prior approval is sought must fall within the class relied on, and no part of it can fall outside it'. The judgement went on to state that a development falls outside the scope of Part 16, Class A if it is not 'for the purpose' of the operator's network. Thus, if the development is partly for some other purpose beyond that of the operator's network, it cannot be development 'for the purpose' of the operator's network precisely because it is for something else as well. In that case the proposed kiosk was for a dual purpose of advertisement display and telecommunications use and therefore contained features that were for advertising and 'not at all there for the telecommunications function'.
7. Whether or not the proposed kiosks are solely for the purpose of the operator's electronic communications network is a matter of dispute between the main parties. While not given at the time of the initial decisions, the Council recommends a further refusal reason for all appeals on the basis that the kiosks are not solely for the purpose of the operator's telecommunications network as required in Schedule 2, Part 16, Class A of the GPDO as they include advertising space.
8. The design of each of the proposed kiosks is the same, comprising a freestanding steel-framed kiosk, constructed with steel casings and toughened glass, with roof-mounted solar panels on top of each side which double as a canopy. They would be approximately 3.1m high, with a footprint of around 0.219m length by 1.325m width. All would comprise a two-sided structure of either black or dark grey appearance. While the orientation of the kiosks is not clear from the plans, one side contains the phone itself set in a recess while the other has a non-illuminated glass panel. Whilst deemed consent allows a non-illuminated advertisement on the glazed surface of one face of the kiosk, in these appeals, only the construction of the kiosks is being considered, and the appellant is not seeking advertisement consent.
9. There is nothing within the evidence before me to indicate that the kiosks explicitly contain elements that are there for the purposes of advertising. Consequently, on the basis of the evidence provided in these appeals, I

¹ Westminster CC v SSHCLG & New World Payphones Ltd [2019] EWHC 176 (Admin) (5 February 2019).

consider the proposals are for the purpose of the operator's electronic communications network.

10. As the principle of development is established, considerations such as need for the call boxes are not relevant matters. 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 developments solely on the basis of their siting and appearance, taking into account any representations received. My determination of these appeals has been made on the same basis.
11. The Council has made reference in its decision notices to Policies 6.10, 7.4, 7.5 of The London Plan (TLP), policies CS8 and CS9 of the Core Strategy (CS), policies DM2.1, DM2.3 and DM2.7 of the Development Management Policies (DMP), The Islington Urban Design Guide (UDG), The Islington Streetbook Supplementary Planning Document (the SPD) and the emerging draft London Plan Policies T2 and D7 (ELP). Similarly, the appellant has introduced Streetscape Guidance (SG) and Pedestrian Comfort Guidance for London (PCG), both published by Transport for London.
12. However, applications for prior approval are determined in relation to the criteria set out within the GPDO and, as such, do not require regard to be had to the Development Plan. Nonetheless, although not determinative, I take account of the above-mentioned policies and documents in so far as they are relevant to matters of siting and appearance.
13. Appeal E relates to a site that is located within the setting of a Listed Building. National planning policy, as set out in the National Planning Policy Framework (the Framework), states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation, and that significance can be harmed or lost through development within their setting.
14. Furthermore, where the appellant has referred to the benefits of the proposal, I have only taken these matters into account in respect of the appeal where heritage assets have been cited, as the Framework advises at paragraph 196, "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".

Main Issues

15. The main issues are the effect of the siting and appearance of the proposed call box on:
 - a) The character and appearance of the surrounding area (all Appeals) and linked to that, the setting of the Grade II listed building (Appeal E only), and;
 - b) The safe and efficient operation of the highway (Appeals D, F, H, I and J only)

Reasons

Appeal A - 107-127 Seven Sisters Road

16. The appeal site is located on an area of footway adjacent to a site currently under development, called the Cottonworks. The proposed call box would be positioned on the outer, roadside edge of the footway. It is noted the footway is narrow at this point, compared to the areas north and south of the Cottonworks, however this is due to the presence of site hoardings. It is appreciated this would be relatively short-term during the construction phase of the adjacent works.
17. This stretch of Seven Sisters Road has a number of street trees and lamp posts, consistently spaced along the outer edge of the footway. The proposed call box, whilst plain and simple in design, would have a significantly larger massing than the adjacent street furniture. As such, it would appear as a prominent and intrusive feature that would be at odds with the surrounding character and add further clutter to the street scene.
18. Accordingly, the siting and appearance of the proposed call box would harm the character and appearance of the area and this harm justifies the refusal of prior approval and the dismissal of appeal A.

Appeal B – opposite 249-253 Hornsey Road

19. The appeal site comprises part of a wide footway, adjacent to a stretch of blank façade with residential units behind. This part of Hornsey Road is largely devoid of street furniture other than street lights and young trees. At the time of site visit there was low pedestrian footfall past the appeal site and given the high level of vacant retail units beyond this does not appear unusual. All this combined provides a pleasant and spacious feel to this part of the urban landscape in a relatively heavily trafficked area.
20. It is acknowledged the style of the call box would be plain and simple, and as noted, due to the lack of street furniture this proposal would not result in significant clutter. However, due to the wide nature of this part of the street the presence of the call box would appear overly prominent and would read as an isolated structure. It would therefore be at odds with its location and would add harmful clutter to the area that would adversely affect the quality of the street scene.
21. For these reasons, the siting and appearance of the proposed call box would cause unacceptable harm to the character and appearance of the area and this harm justifies the refusal of prior approval and the dismissal of appeal B.

Appeal C – 97 Seven Sisters Road

22. The appeal site comprises part of the footway close to the junction of Seven Sisters Road with Hornsey Road. This stretch of footway has a significant number of items of street furniture, including lamp posts, street trees, utility box, highway signs and a row of cycle stands. All are predominantly sited close to the outer edge of the footway and this proposal seeks to follow this layout.
23. It is noted the style of the call box would be plain and simple. However, it would introduce a further element of street clutter at the footway edge along this relatively short stretch of Seven Sisters Road and thus it would result in an increasingly cluttered appearance. Further, it would be of a considerably wider

scale and massing to the surrounding street furniture, resulting in an overly dominant and intrusive feature.

24. Accordingly, the siting and appearance of the proposed call box would cause unacceptable harm to the character and appearance of the area and this harm justifies the refusal of prior approval and the dismissal of appeal C.

Appeal D – 341-345 Holloway Road

25. The appeal site is located on a relatively wide area of footway along Holloway Road. This part of the street comprises a mix of residential, retail and other commercial uses and there is a significant amount of street furniture, including an existing telephone kiosk within close proximity to the appeal site. Furthermore, immediately opposite the site is an area of outdoor seating associated with a café and there are also large street trees and a pedestrian crossing adjacent.
26. Taking the above into consideration, this part of Holloway Road already has a cluttered appearance. The positioning and design of this proposal would introduce a further element of clutter to the area. The resultant proliferation of street furniture and paraphernalia of various design styles would adversely affect the quality of the public realm and cause unacceptable harm to the character and appearance of this part of Holloway Road.
27. I note the analysis of the appellant's highway consultant that the proposal would accord with the Streetscape Guidance 2017 (SG) and the Pedestrian Comfort Guidance for London 2010 (PCG), both produced by Transport for London (TfL), and thus would not compromise pedestrian safety. However, the analysis does not take into account the café's outdoor seating area and amount of existing street furniture as noted above. Further, during the time of my site visit the footway was busy with pedestrians. I have seen nothing to suggest my observations are untypical, taking into consideration the range of shops and services available along this stretch of footway. Therefore, as the proposed call box would be positioned adjacent existing street furniture and within close proximity to the seating area, I find that it would unacceptably impede pedestrian movement.
28. Accordingly, the siting and appearance of the proposed call box would harm the character and appearance of the area and the function of the highway and the safety of its users. This harm justifies the refusal of prior approval and the dismissal of appeal D.

Appeal E – 474 Caledonian Road

29. The appeal site is located on an area of footway adjacent to the entrance of a convenience store. It is also within close proximity to traffic lights which provide a pedestrian crossing to the entrance of the Grade II listed building, the Caledonian Road underground tube station, opposite. The site therefore lies within the setting of the listed building.
30. With the exception of a single street tree and lamp post, the stretch of footway around the appeal site has a largely uncluttered appearance. Whilst the proposed design of the call box would be plain and simple, it would nonetheless

introduce a substantial mass to the footway which would be highly prominent and visually intrusive.

31. In such an environment the call box would also be a discordant and distracting element within the setting of the listed building and would not therefore preserve its significance as a heritage asset.
32. Given that the effect of the kiosk would be localised, the harm to the significance of the heritage asset would be less than substantial. While some public benefits would arise from the provision of the kiosk, including the availability of a public phone and internet access, these matters would not outweigh the harm I have identified.
33. As such, the siting and appearance of this proposal would harm the character and appearance of the area and would fail to preserve the setting of the listed building. This harm justifies the refusal of prior approval and the dismissal of appeal E.

Appeal F – Parkhurst Road junction Holloway Road

34. The site relating to appeal F is located along Parkhurst Road, close to the junction with Holloway Road. There is a pedestrian crossing and other features including large mature street trees, cycles stands and lamp posts within close proximity.
35. The proposed call box would be sited on the outer edge of the footway and would take up a substantial proportion of the width of the footway. It would largely be in line with existing street furniture however it would have a significantly larger mass. Thus, despite its plain and simple design, its positioning would result in a highly prominent and visually intrusive feature in the street scene. As such it would harm the character and appearance of the area.
36. It is noted the stretch of footway around the appeal site is relatively narrow. However, the appellant's highway consultant notes that whilst the overall footway does not meet the minimum recommended footway width in the PCG due to lower pedestrian flows this width may be lowered accordingly. Further, the proposal would accord with the minimum footway clear zone recommended by the SG. Despite this however, the proposed siting in combination with existing furniture would act as obstacles for pedestrians to navigate around. Thus, I find that this proposal would have an unacceptable adverse impact on pedestrian permeability.
37. For these reasons, the siting and appearance of the proposed call box would harm the character and appearance of the area and the function of the highway and the safety of its users. This harm justifies the refusal of prior approval and dismissal of appeal J.

Appeal G - 309 Holloway Road

38. The appeal site comprises an area of footway on Holloway Road opposite a pedestrian entrance to a residential development. Immediately to the south-east of the site is a vehicular access to an under-croft parking area. There is a

café beyond with an external seating area and to the north-west is a convenience retail store.

39. The proposed call box would be positioned in close proximity to a stretch of other street furniture including lamp posts, highway signs, litter bins, trees, red pillar box and cycle stands. All these features are spaced tightly together, thus creating a sense of enclosure between the footway and carriageway. As such, this part of the footway already has a cluttered appearance.
40. It is acknowledged that the style of the call box would be plain and simple however, due to its siting, this proposal would introduce a further element of clutter to the area. The resultant expanse of various street furniture along the kerbside of this stretch of footway would downgrade the quality of the public realm and cause unacceptable harm to the street scene.
41. Taking the above into consideration, the siting and appearance of the proposed call box would harm the character and appearance of the area and thus justifies the refusal of prior approval and the dismissal of appeal G.

Appeal H – Camden Road adjacent Buckmaster House

42. The proposed call box would be sited on an area of footway on Camden Road close to the junction with Holloway Road. The stretch of road which passes the appeal site is a busy one-way carriageway with three lanes of traffic at the junction which then branches into four lanes. In the vicinity of the appeal site are lamp posts, utility boxes and traffic signals with a pedestrian crossing. All are located on the kerbside of the footway, similar to the proposed siting of the call box concerned in this appeal.
43. It is acknowledged the style of the call box would be plain and simple. However, its positioning on the outer edge of the footway combined with its overall height and massing would appear highly prominent to highway users on the approach to this stretch of Camden Road after the junction. Further, it would appear at odds in the wider street scene, which is characterised by narrow and unassuming street furniture adjacent. Thus, the proposal would be visually intrusive and therefore harm the character and appearance of the area.
44. The proposed call box would be positioned on the outer edge of the footway, largely in line with existing street furniture. It is noted the stretch of footway around the appeal site is narrow. However, the appellant's highway consultant notes that whilst the overall footway does not meet the minimum recommended footway width in the PCG, due to lower pedestrian flows this width may be lowered accordingly. Further, the proposal would accord with the minimum footway clear zone recommended by the SG. Nonetheless, the width of the proposed call box would create a pinch point on this stretch of footway, and in combination with the existing street furniture would interrupt the free flow of pedestrians. Taking the above together I find that the proposal would have an unacceptably adverse effect on pedestrian movement.
45. Accordingly, the siting and appearance of the proposed call box would harm the character and appearance of the area and would be detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal H.

Appeal I - Holloway Road adjacent Cairns House

46. The appeal site is located on an area of footway on Holloway Road outside the residential building Cairns House (No.1-25). The footway here is wide and contains numerous items of street furniture including a pedestrian crossing, bus shelter, road sign and lamp posts. There is a break in the central reservation to allow vehicles travelling north west along Holloway Road to make a right turn onto Loraine Road. As such it is a busy and cluttered stretch of Holloway Road.
47. The proposed call box would be positioned close to the edge of the footway, largely in-line with the road sign, bus shelter and various lamp posts. Whilst the style of the call box would be plain and simple, the addition of the mass of the structure together with the aforementioned features would cumulatively result in a further increased cluttered appearance to the street scene.
48. At the time of site visit this stretch of Holloway Road was very busy with traffic travelling past the appeal site and the pedestrian crossing and bus shelter was in frequent use. I have seen nothing to suggest my observations are untypical. I note the analysis of the appellant's highway consultant that the proposal would accord with the SG and the PCG and thus would not compromise pedestrian safety. Nonetheless, the proposal in combination with the aforementioned features would create a number of obstacles for footway users to navigate around.
49. Additionally, it is considered that the positioning, scale and massing of the proposed call box on the outer edge of the footway would obstruct views of the road sign beyond, thus adversely affecting driver safety.
50. Consequently, the siting and appearance of the proposed call box would harm the character and appearance of the area and would be detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal I.

Appeal J - 282 Holloway Road

51. The site relating to Appeal J is located on the outer edge of a stretch of footway along Holloway Road close to the junction with Jackson Road. The proposed call box location is in front of a fast food restaurant. This part of the footway is relatively wide, however it contains many items of street furniture including a litter bin, lamp posts, cycle stands and a dot matrix highway sign. Further, there is an outdoor seating area for the restaurant.
52. The positioning and design of this proposal, whilst it would be plain and simple, would introduce a further element of street furniture to this stretch of Holloway Road, thus adding to its already cluttered appearance. The resultant proliferation of street furniture would adversely affect the quality of the public realm and cause unacceptable harm to the character and appearance of this part of Holloway Road.
53. I note the analysis of the appellant's highway consultant that the proposal would accord with the SG and PCG, and thus would not compromise pedestrian safety. However, the analysis does not take into account the street furniture or

the restaurant's outdoor seating area noted above. Further, during the time of my site visit the footway was busy with pedestrians. I have seen nothing to suggest my observations are untypical. Taking this into consideration, as the proposed call box would be positioned adjacent existing street furniture, I find that it would unacceptably impede pedestrian movement.

54. As such, the siting and appearance of the proposed call box would harm the character and appearance of the area and the function of the highway and the safety of its users. This harm justifies the refusal of prior approval and dismissal of appeal J.

Other Matters

55. The appellant has drawn my attention to other appeal decisions. I do not have the full circumstances of the other cases and so cannot determine whether they are directly comparable to the proposal before me. Notwithstanding this, I note that some of the other cases are within other local planning authority areas, where a different character and appearance will prevail. Moreover, the proposed call boxes each have their own settings. In any event I have determined the appeals before me on their own merits.

Conclusion and Recommendation

56. For the reasons given above and having regard to all other matters raised, I recommend that appeals A-J are dismissed.

Hannah Ellison

Appeal Planning Officer

Inspector's Decision

57. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeals are dismissed.

Susan Ashworth

INSPECTOR