The Planning Inspectorate

Appeal Decision

Site visit made on 2 September 2019 by C Brennan BAE (Hons) M.PLAN

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2019

Appeal Ref: APP/X5210/W/18/3211226
Pavement outside 166 High Holborn, London, WC1V 6TT

- 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) Order 2015 (as amended).
- The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden.
- The application Ref 2018/0321/P, dated 21 January 2018, was refused by notice dated 15 March 2018.
- The development proposed is a call box.

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The address on the application form states No. 166 High Holborn. However, this is misleading as the appeal site relates to land to the front of the building, not the building itself. For clarity and precision, I have used the address as included on the decision notice.

4. I have taken into account the submitted Opinion of Counsel regarding the recent judgement of Westminster City Council v Secretary of State for Housing, Communities and Local Government & New World Payphones Ltd (2019) EWHC 176 (Admin), which considered the matter of dual purpose of call boxes for advertisement display and telecommunications use. From the materials before me, I find no evidence to suggest that the proposal includes elements that are there for the purpose of advertising. I consider that the proposal relates to the operator's electronic communications network only.

5. As such, and as the appellant is an electronic communications code operator, the appellant is able to benefit from permitted development rights for a proposed call box under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO), subject to the condition in part A.3 which requires the prior approval of the local planning authority in respect of the siting and appearance of the development.

6. The provisions of the Order require the local planning authority to assess the proposed development solely on these matters. As such considerations such as

the need for a telephone kiosk and whether it may be used for advertising in the future are not relevant to this appeal. Likewise the Council's concerns relating to the proposal's accessibility for wheelchair users goes beyond the scope of part A.3. Accordingly, the main issues are set out below.

Main Issues

7. The main issues are:

   i) the effect of the proposal's siting and appearance on the character and appearance of the surrounding area;

   ii) the effect of the proposal's siting and appearance on highway and pedestrian safety;

   iii) the effect of the proposal's siting and appearance on crime and anti-social behaviour in the surrounding area.

Reasons for the Recommendation

Character and Appearance

8. The appeal site is set within a section of pavement on the northern side of High Holborn, about 50m to the east of Princes Circus. The surrounding area is predominantly commercial in nature, with retail and office buildings fronting onto very busy pedestrian and vehicular thoroughfares. Although not shown on the photographic illustration submitted as part of the application, I observed during my site visit that a call box of a markedly different design lies about 3m to the southwest of the appeal site. While the proposal incorporates steel, glass and remains open in appearance through the absence of front door, the existing call box has been designed to a more traditional specification and provides an enclosure for the user. As such despite its neutral design, the proposal would contrast with the existing call box appearing as an incongruous addition to the street scene, and would result in a visually cluttered street scene when seen within the context of the existing call box.

9. The appellant asserts that public call boxes, like other street furniture, are typical of a major city. However, as the proposal would result in the appearance of a cluttered street scene due to close proximity of an existing call box, it is considered that the proposed box would not be acceptable in this location.

10. For the above reasons, I conclude that the siting and appearance of the proposal would cause unacceptable harm to the character and appearance of the surrounding area.

Pedestrian and Highway Safety

11. The existing call box close to the site is set back from the edge of the adjacent kerb by around 1m, while the proposed would be set back 0.45m from the kerb. In combination with the existing call box, the proposal would result in an unusual staggered arrangement of bulky obstructions within a section of pavement which experiences a high level of pedestrian footfall.

12. Furthermore, the appellant states that the choice of the appeal site for the proposal was based upon a clear methodology derived from the Transport for London document Pedestrian Comfort Guidance, taking matters such as visual

congestion, clutter, pedestrian flows, etc into account. However, according to the primary test provided by the appellant for establishing the suitability of the appeal site, it is suggested that the footway should be 5.3m in width. However, as the footway here is 4.4m in width, the appellant's own evidence suggests that the siting of the proposal is inappropriate in this location. As such, I consider that, in combination with the existing call box, the proposal would have an unacceptable impact on pedestrian and highway safety.

13. For the above reasons, I conclude that due to its bulk, width and siting within a busy pedestrian thoroughfare and in combination with the existing call box, the proposal would be an obstruction to the high levels of pedestrian movement which passes through the area. This combined with the close proximity of the busy road adjacent to the pavement, means the siting and appearance of the proposal would cause unacceptable harm to pedestrian and highway safety.

Crime and Anti-Social Behaviour

14. Comments received from the Metropolitan Police Service suggest that the proposal could act as a focal point for anti-social behaviour. However, I have no conclusive evidence to demonstrate how this would be the case. Furthermore, I have no evidence that would support the view that the siting of call boxes is a contributory factor to the rise in crime.

15. The proposed location would be located within a busy pedestrian thoroughfare and would be open to wide public surveillance. Furthermore, as the design of the proposal does not include a front door and incorporates glass within the side panelling, any criminal or anti-social activity would be readily observed by pedestrians and other road users.

16. For the above reasons, I do not consider that the proposal would cause an increase in crime and anti-social behaviour in the area.

Other Matters

17. The appellant has drawn my attention to various appeal determinations for similar development in support of the proposal. However, as the full details and circumstances of these appeals are not before me, I am unable to draw direct parallels between these cases and the current proposal. In any case, as each appeal must be determined on its own merits, I give little weight to these other cases.

Conclusion and Recommendation

18. Although I have found that the proposal would not cause an unacceptable level of harm in respect the levels of crime and anti-social behaviour in the surrounding area, I do not consider that this outweighs the harm the proposal would cause to the character and appearance of the area, and pedestrian and highway safety.

19. Insofar as they relate to siting and appearance, I have regard to Local Plan policies D1 which requires that development proposals must respect local context and character, G1 which states that the Council will deliver growth by supporting development that makes best use of its site with due regard to its surroundings, A1 which states that the Council will resist development that fails to adequately assess and address transport impacts, T1 which states that the Council will ensure that development improves the pedestrian environment,

and C5 which states that the Council will require development proposals to demonstrate that they incorporated design principles which contribute to community safety and security. I have not had regard to Policy C6, which relates specifically to accessibility and therefore falls beyond the remit of Schedule, 2, Part 16, Class A, Condition A.3 of the Order.

20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

C Brennan

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR