
Appeal Decision

Site visit made on 8 October 2019

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2019

Appeal Ref: APP/U5360/W/18/3213809

Queensbridge Road adjacent Mansfield Court, London E2 8BL

- 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) (England) Order 2015 (as amended).
 - The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2018/0542, dated 1 February 2018, was refused by notice dated 21 May 2018.
 - The development proposed is a call box.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 came into force on 25 May 2019 which, amongst other things, removed the permitted development rights for the installation of telephone kiosks as well as the deemed consent for the display of advertisements on these. However, as the appeals were submitted prior to 25 May 2019 they fall under the transitional and saving provisions and should therefore be considered against the previous GPDO legislation. I have considered the appeals on this basis.
3. 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 these appeals has been made on the same basis.
4. 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 to be had to the development plan. However, insofar as the identified policies and guidance relate to siting and appearance, I have taken account of them as material considerations.
5. The Council consider that as there is an openable panel to the rear of the call box that it is likely that the intention is for this to be used for advertisements and thus constitute it being for a dual purpose. Following the recent High Court

Judgement for Westminster City Council v Secretary of State for Housing Communities and Local Government [2019] EWHC 176 (Admin) [New World Payphones Ltd as Interested Party], consideration is given to whether the proposal falls under the remit of the GPDO or whether it is likely that the inclusion of an advertisement panel would constitute a dual purpose which would result in the proposal failing to comply with the requirements of the GPDO. I have considered this and in light of the provision of deemed consent for one advertising panel and the fact that there appears to be no accompanying advertisement proposal, I find that the appeal proposal can be considered under the Prior Approval legislation in this instance.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposed call box upon the character and appearance of the area.

Reasons

7. The appeal site comprises an area of pavement running alongside Queensbridge Road, adjacent to an existing block of residential flats known as Mansfield Court. Mansfield Court is set back from the road, with small areas of landscaping, fencing and open railings located in proximity to the footpath.
8. In the immediate vicinity of the proposal there are a few examples of existing street furniture consisting of road signs and street lights, as well as some small-scale utility cabinets which are set back adjacent to the back edge of the footpath. There are traffic lights on the junction with Whiston Road and on the opposite side of Queensbridge Road is a speed camera. Queensbridge Road offers reasonably straight views along towards Whiston Road and beyond in one direction, and towards the bridge in the other direction. The road is lined with street trees which create an attractive vista between the buildings, which is not overly interrupted by a proliferation of signs or prominent street furniture.
9. The appeal proposal relates to a telephone call box which would comprise a metal framed and glazed structure with a canopy roof to provide shelter and small side panels to ensure structural stability. The rear glazed panel would be openable, and the payphone would be powered by solar panels. The structure would be largely open to allow ample access.
10. Although of a reasonably limited footprint, the overall height of the call box and the size of the canopy would result in the proposed call box being prominent and bulky within the existing street scene. The existing items within the street are reasonably small in scale or set on narrow poles and the proposal would therefore appear dominant and incongruous in relation to its surroundings. Its positioning within the pavement would detract from the attractive character of this part of the road and would visually intrude on the presence of the mature trees.
11. Consequently, I find that for the above reasons the proposal would materially harm the character and appearance of the area. Moreover, the proposal would conflict with Policies DM1 and DM30 of the Hackney Development Management Local Plan (2015), Policy 24 of the Hackney Local Development Framework Core Strategy (2010) and Policy 7.5 of The London Plan (2016). In reaching this conclusion I have taken account of Section 10 of the Framework which

seeks to support, and highlights the importance of, advanced, high quality and reliable communications infrastructure, however, in this site-specific location this does not outweigh the harm that I have identified.

Other Matters

12. I have had regard to the benefits of providing call box functions to the community and achieving a better level of coverage to fill in the gaps in the existing network. I also note that it is a requirement that a large number of sites are brought forward contemporaneously to ensure the roll out is carried out in a viable way. However, these considerations are not sufficient to outweigh the harm to the character and appearance arising for the above reasons in this instance.
13. I have had regard to the examples of other appeal decisions provided by the Appellants, however I have limited information before me of their histories and contexts. Nevertheless, it is likely that these would differ in their contexts to what is before me and I have therefore considered the scheme on its individual merits against the criteria of the GPDO, the Framework and any other material considerations.
14. Local objections have been received concerning, in addition to the above matters, the proximity of the call box to family homes and the potential for antisocial behaviour. However, it is not necessary for me to conclude on these matters as they would not alter my above findings.

Conclusion

15. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

R Norman

INSPECTOR