
Appeal Decisions

Site visit made on 8 October 2019

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2019

APPEAL A: Appeal Ref: APP/U5360/W/18/3213750 225 Old Street, Hackney, London EC1V 9HE

- 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 2018/0533, dated 1 February 2018, was refused by notice dated 21 May 2018.
 - The development proposed is a call box.
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APPEAL B: Appeal Ref: APP/U5360/W/19/3230863 225 Old Street, Hackney, London EC1V 9HE

- 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 2018/4121, dated 6 November 2018, was refused by notice dated 14 December 2018.
 - The development proposed is a public call box.
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Decision

1. Appeal A is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a call box at land at 225 Old Street, Hackney, London EC1V 9HE in accordance with the terms of the application Ref 2018/0533, dated 1 February 2018, subject to the standard conditions set out in the GPDO.
2. Appeal B is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a public call box at land at 225 Old Street, Hackney, London EC1V 9HE in accordance with the terms of the application Ref 2018/4121, dated 6 November 2018, subject to the standard conditions set out in the GPDO.

Procedural Matters

3. Appeal A relates to the provision of a telephone call box. It would comprise of 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.
4. Appeal B relates to a public call box which would consist of a slim structure with a payphone on one side and a non-illuminated panel to the other side. It would have two projecting canopies at the top to provide shelter which would also host solar panels for powering the payphone. It would be constructed from black stainless steel and toughened glass with LED lighting.
5. 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.
6. 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.
7. 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.
8. The Council consider that as there is an openable panel to the rear of the call boxes that it is likely that the intention is for these to be used for advertisements and thus constitute them 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 proposals, I find that the appeal proposals can be considered under the Prior Approval legislation in this instance.

Main Issues

9. The main issues are the effect of the siting and appearance of the proposed call boxes on the:
- Character and appearance of the area; and
 - Highway and Pedestrian Safety

Reasons

Character and Appearance

10. The appeal site is located on Old Street, in proximity to Old Street Underground Station. The immediate area is characterised by predominantly commercial properties with varied scales and designs of buildings present. The highway and footpath are reasonably busy with pedestrian and vehicular traffic. Close to the proposed positioning of the call boxes is a bus shelter and other nearby street furniture include litter bins, road signs including a large one set over the pavement, and large illuminated advertisement panels. Further along Old Street there are existing call boxes and telephone kiosks.
11. Whilst the proposed call boxes would both be greater in height and bulk than a standard call box, and would be prominent within the street scene, I find that as a result of the proximity to the bus shelter and the scale and positing of the nearby large road sign, the call boxes would not appear incongruous or dominant along Old Street. Given the existing structures along this part of the pavement I consider that the call boxes would be successfully assimilated into the existing visual character of the area.
12. Although I note the number of existing telephone call boxes and kiosks in the vicinity of the appeal site, I have had regard to paragraph 116 of the Framework which advises that the need for the telecommunications system should not be questioned by the local planning authority.
13. Accordingly, I find that the provision of a call box of either type would not give rise to any material harm to the character and appearance of the area over and above the existing structures. Accordingly, I find that the proposals comply with Section 10 of the Framework and would also meet the requirements of 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).

Pedestrian and Highway Safety

14. The appeal site is located in an area which has a high level of pedestrian footfall due to its proximity to Old Street Underground Station. The pavement along this part of Old Street is reasonably restricted by the positioning of the buildings directly adjacent to the back edge of the footpath and the presence of existing features within the pavement, including road signs and bus stops.
15. The Council have raised concerns that the remaining width of the pavement would fall below the TFL's Pedestrian Comfort Guidelines (2010). However, I have had regard to the existing situation along this part of Old Street. The proposed call boxes would be aligned with the existing street furniture, including the bus stop. I therefore find that due to the existing obstructions and the good visibility along this part of Old Street resulting from the relatively

straight and flat nature of the street, the proposed siting of the call boxes would not result in any significant deterioration in visibility for pedestrians and highway users.

Conditions

16. Any planning permission granted for the call boxes under Article 3(1) and Schedule 2, Part 16, Class A is subject to the conditions set out in Paragraphs A.3 and A.2, which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority receive the application, and must be removed as soon as reasonably practical after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

17. For the reasons given above, and having regard to all matters raised, I conclude that both Appeals A and B should be allowed, and prior approval should be granted.

R Norman

INSPECTOR