



Appeal Decisions

Site Visits made on 18 September 2019

by Stephen Wilkinson BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2019

All Appeals

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

Appeal A Ref: APP/V5570/W/19/3231173

201-203 Old Street, Islington, London, EC1V 9QN

Grid Reference: 532610 182665

- The application Ref P2018/3650/PRA, dated 30 October 2018, was refused by notice dated 18 December 2018.

Appeal B Ref: APP/V5570/W/19/3231250

140 Old Street, Islington, London, EC1V 9BJ

Grid Reference: 532463 182404

- The application Ref P2018/364/PRA, dated 30 October 2018, was refused by notice dated 18 December 2018.

Appeal C Ref: APP/V5570/W/19/3231242

97 Old Street, Islington, London, EC1V 9JJ

Grid Reference: 532253 182331

- The application Ref P2018/3677/PRA, dated 30 October 2018, was refused by notice dated 18 December 2018.

Appeal D Ref: APP/V5570/W/19/3231255

7-21 Goswell Road, Islington, London, EC1M 7AH

Grid Reference: 532086 182053

- The application Ref P2018/3661/PRA, dated 30 October 2018, was refused by notice dated 18 December 2018.

Appeal E Ref: APP/V5570/W/19/3231248

1 South Place, Islington, London, EC2M 2UP

Grid Reference: 532824 181756

- The application Ref P2018/3674/PRA, dated 30 October 2018, was refused by notice dated 18 December 2018.

Appeal F Ref: APP/V5570/W/19/3231258

St John Street by the Rhind Building, Islington, London, EC1R 0JD

Grid Reference: 531566 182665

- The application Ref P2018/3691/PRA, dated 30 October 2018, was refused by notice dated 18 December 2018.
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Appeal G Ref: APP/V5570/W/19/3231257

Grid Reference: 531310 182547

Roseberry Avenue, Islington, London, EC1V 9QN

- The application Ref P2018/3664/PRA, dated 30 October 2018, was refused by notice dated 18 December 2018.
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Decisions

1. Appeal A, is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a public call box on land at 201-203 Old Street EC1V 9QN in accordance with the terms of the application Ref P2018/3650/PRA, dated 30 October 2018, and the plans and documents submitted with it.
2. Appeals B, C, D, E, F and G are hereby dismissed for the reasons set out in paragraphs 18-28 of this letter.

Procedural Matters

3. In cases where an appeal is lodged under section 78 of the Town and Country Planning Act 1990 within 6 months of the date of notice of refusal of a prior approval application submitted before 25th May 2019, in accordance with the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 - Part 5 Transitional and saving provisions, the planning permission granted by Class A of Part 16 of Schedule 2 to the Order continues to have effect in relation to a public call box as if the amendments made to that Order by Part 2 of the Regulations had not been made. In each of these appeals prior approval was refused on 18 December 2018 and the appeal was lodged within 6 months.
4. 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.
5. In the case of Appeals C and G, the sites are located within the St Luke's and Roseberry Avenue Conservation Areas (CA) respectively and the statutory requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Other appeal sites lie adjacent to CAs where the same considerations apply.
6. The provisions of the GPDO require the proposed development to be assessed solely on the basis of its siting and appearance. Therefore, whilst the appellant has referred to the purported benefits of the proposed kiosk, I have not taken these matters into account other than in respect of heritage assets in accordance with paragraph 196 of the National Planning Policy Framework 2019 (the Framework).

7. Since the original decisions were made by the Council, the Framework has been revised. As the changes are minor and do not directly relate to the issues raised by these appeals I have had regard to the revised framework and I am satisfied that this has not prejudiced either party.

Main Issues

8. The main issues are the effect of the proposals on:
- For all the appeals - the character and appearance of the streetscene, and
 - For appeals C, F and G in addition to the above issue whether it would preserve or enhance the character or appearance of the Conservation Area (CAs) which they lie either within or adjacent to.

Reasons

Public Call Boxes

9. In each case the proposed public call box would have an overall height of 3.12m, this includes two photo-voltaic (PV) cells located on the top (without these the structure would have a height of 2.8m). The width of the main structure would be 0.219 although the width extends to 0.976m when accounting for the PV cells atop the structure which project outwards as a pair of 'wings'. Its depth would be 1.325m. A PV cell would be located in each side of the structure and a LED strip light would illuminate its 4 vertical edges. The material around the phone within the structure would comprise toughened glass with a PV panel and the panel facing the other side is described as a non illuminated display panel. The site plan for each appeal identifies the site broadly and there is reference to eastings/northings grid points. The orientation of each proposal is hatched red to indicate its proposed location designed to sit at right angles to the kerb edge. The applicant states that the design of the call box facilitates use by people with mobility difficulties.
10. The Appellant states that they are an electronic code system operator seeking to deliver a new network of public call boxes. The submission of a large number of applications is consistent with the need to establish a new network. Furthermore, their work is consistent with the National Planning Policy Framework (2019) which recognises the importance of high quality communications infrastructure to support economic growth and well being. The Appellants state that their boxes are based on a sound functional design and constructed of high quality materials which adhere to principles for street furniture and would not appear visually intrusive or dominant in the street scene. The proposed payphone kiosks would be an accessible local community facility and the PV modules would generate power to illuminate each unit.

Planning Policy and Guidance

11. The principle of development is established by the General Permitted Development Order 2015 and its provisions under Schedule 2, Part 16, Class A do not require regard to be had to the development plan. However, I have had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance.

12. In making each of my decisions I have had regard to Policies CS 7, CS 8 and CS9 of the Council's Core Strategy which seek to ensure that all new development makes a positive contribution to the distinctiveness of the local environment and to the public realm. These strategic policies are reinforced by Policies DM2.1, DM2.3 and DM2.7 of the Development Management Policies (2013). Furthermore, these policies are supported by the Islington Urban Design Guide and Streetbook (2017). I have had regard to policies 6.10, 7.4 and 7.5 of the London Plan (2016), and draft policies T2 and D7 included in the emerging London Plan (2017).
13. Furthermore, for those sites which lie either within or adjacent to CAs I am required to have special regard to the desirability of the preservation or enhancement their character or appearance.
14. The Appellant has provided a 'dashboard' of each site indicating a range of information including the site's location, footway width and the distance of each proposal from the edge of kerb. I have used this information to inform each of my decisions. The 'dashboard' also provides summaries of Transport for London (TfL) guidance, Pedestrian Comfort (2015) and Streetscape 2017 which respectively provide advice on variable pavement clearances related to pedestrian movement and minimum footway widths.
15. The dashboard identifies that each of appeal sites are in areas of high pedestrian flow where a minimum unobstructed footway width of 5.3m is advised although this is qualified by the Streetscape guidance which recommends a minimum, footway width of 2m although this is reduced to 1m unless the length of obstruction is over 6m in length. These provide primary and secondary tests for each appeal which I have used along with adopted policies summarised below to inform my decisions.

Appeal A

16. The pavement at this site is about 21.4m in width with the appearance of a broad boulevard, described in the officer's report as a 'promenade of light'. This has three distinct areas distinguished by a line of street trees and by pedestrian furniture. The street furniture includes seating rings around trees, seating, lighting columns, cycle stands, litter bins, planting beds and a redundant call box and there is a large number of highway direction signs.
17. The proposed public call box would be sited close to an existing litter bin but would not impede its use and would be set back by 6.9m from the kerb edge. Despite the overall height of this structure given its local context it would not strike a dominant and intrusive form of development nor unacceptably add to clutter. In arriving at this decision I have considered the recent appeal decision (APP/V5570/W/18/3211446) which allowed a telephone kiosk at this location which although of a different design and being lower in height when compared to this scheme.

Appeal B

18. The application site lies on the footway on the frontage of a modern commercial building. The footway here has a width of 5.8m with a litter bin, pole mounted CCTV camera and street lamp column.

19. The determining issue is the impact of this large structure on the streetscene. Given the location of this site and the other pieces of street furniture present it will be prominent and visually intrusive creating a sense of clutter along this stretch of Old Street. The Council's second reason for refusal identifies the potential for obstruction to the operation of the CCTV camera in this location. I do not have any evidence to demonstrate that the proposal would obstruct the operation of the CCTV camera in this location, and therefore find no harm in this regard. However, an absence of harm is a neutral factor which weighs neither for nor against the proposal.

Appeal C

20. The appeal site lies on the frontage of a terrace of commercial properties where the width of the footway extends to only 5.5m. There are several other items of street furniture along this length of road including a street tree, lamp column, cycle stand and redundant phone box.
21. The St Luke's CA is centred around the listed St Luke's church and includes streets dating from the eighteenth and nineteenth centuries although parts of its historic street pattern date from earlier periods. In addition to the church there are many other listed buildings in the CA. The proposed location of the call box would add to clutter in the streetscene. Although the appeal site lies just outside of the CA it is visible from it and the proposed development with its modern design would fail to preserve or enhance the character and appearance of the CA. This harm would be less than substantial.

Appeal D

22. The appeal site lies outside Nos. 7-21 Goswell Street south of its junction with Old Street. The ground floor is occupied by a restaurant. Goswell Street carries large volumes of vehicular traffic. Street furniture along this frontage includes an electricity supply box, litter bin and lighting column. The footway width in this location is 5.2m although this includes a shallow area of private forecourt which serves the property. It would seem that the Appellants identify that there will be a footway clear zone of 3.4m although they have not taken full account of the extent of the private forecourt at this site which would reduce the width of the available footway by approximately 1m.
23. Whilst the minimum clearances for street furniture with the appeal proposal can still be accommodated along this section of footway the critical issue is the degree of impact on the character and appearance of the streetscene. Given the location, height and design of the proposal it would strike a discordant element along this part of the street. Together with the other items of street furniture on this part of the footway it would also create a sense of clutter to its detriment.

Appeal E

24. The application site lies on the pedestrian footway outside a modern commercial building close to the junction of South Place with Dominion Street. South Place lies between Moorgate and Finsbury Square in the heart of the City and has high pedestrian flows. There is only one lighting column and one pole mounted highway sign along this part of the pedestrian footway. The site lies within 50m of the Finsbury Square and Bunhill Fields CA which is characterised

by Victorian and Edwardian commercial buildings and open spaces including Bunhill Fields, Finsbury Square and the playing fields of the Honourable Artillery Company.

25. Given that there are other pieces of street furniture along this section of footway in the context of what is a narrow street the proposed public call box would be intrusive given its overall height and design. It would also create a sense of clutter detrimental to the character and appearance of the streetscene. Given the site's immediate context located by modern buildings and outside the CA I do not consider that the proposal would adversely impact on its character or appearance.

Appeal F

26. The appeal site lies on an area of footway by the Rhind building which forms a complex of new buildings occupied by City University on St John's Street. The site is prominent given the width and orientation of St John's Street at this point. The site lies within 50m of both the New River and Northampton Square Conservation Areas and opposite the 'College Building' a Grade II listed building. The New River CA is characterised by eighteenth and early nineteenth century terraced residential properties located around a series of Squares constructed by the New River Company, the Brewer's Company and the Lloyd Baker estate. The Northampton CA comprises primarily Georgian properties located around Northampton Square. The dashboard identifies that there would be a footway clear zone of 8m although part of this footway is set at a lower level than the pedestrian footway and may form part of a private forecourt adjacent to a fire escape serving the building. Close to the site is a phone box, bus stop, lighting column and traffic lights at the junction of St Johns Street with Spencer Street.
27. The context of this site is determined by the proximity of the two CA's, the listed building and the Rhind building. Whilst the Rhind building is a large modern building against which the design of the public call box would be acceptable the site's wider context neighbouring the two CA's and opposite the College Building is of more importance. The prominent appeal site would be clearly visible from both CAs. Given the significant weight local policy and the Framework gives to the protection of designated heritage assets I consider that this proposal by reason of its location, height and design would adversely affect the character and appearance of the CAs. Given the width of St John's Street at this point the extent of harm to the College Building would be less than substantial.

Appeal G

28. The application site lies on the return frontage of 84-86 Roseberry Avenue which lies on Tysoe Street. This is a short street in the Roseberry Avenue CA and within 50m of the New River CA. The Roseberry Avenue CA is characterised by Edwardian buildings with shops and houses dating from the eighteenth and nineteenth century in Exmouth Market. The New River CA is characterised by eighteenth and early nineteenth century terraced residential properties located around a series of Squares constructed by the New River Company, the Brewer's Company and the Lloyd Baker estate. The pedestrian

footway includes several items of street furniture including a redundant telephone box, 2 cycle stands and a directional sign.

29. There is a large amount of existing street furniture within a short stretch of footway in addition to the public call box. Furthermore, its location, height and design would be discordant and intrusive to the character and appearance of the streetscene and would detract from the character and appearance of the CA.

Conclusions

30. In respect of Appeal A, I consider that despite the large amount of street furniture along the pedestrian footway and around the application site the proposed public call box would not adversely affect the character and appearance of the streetscene at this point.
31. In the case of Appeals B - G, for the reasons set out above, I conclude that the siting and appearance of each proposed public call box would have a harmful effect on the character and appearance of the area caused by additional clutter in the streetscene.
32. As set out in the Framework, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In line with Chapter 16 of the Framework, the harm I have identified in the cases of Appeals C, F and G is less than substantial. However, any harm requires clear and convincing justification. The social and environmental benefits of the appeal proposals identified above do not amount to public benefits which convincingly outweigh the harm to the heritage assets.
33. For the reasons set out above, and having had regard to all other matters raised, I conclude that Appeal A is allowed and Appeals B – G are dismissed.

Stephen Wilkinson

Inspector