
Appeal Decisions

Site visit made on 2 September 2019 by Hilary Senior BA(Hons) MCD MRTPI

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 23 December 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 under Article 3 (1) and Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order.
 - The appeals are made by Maximus Networks Ltd against the decision of the Council of the London Borough of Lambeth.
 - The development proposed in each case is the installation of a public call box.
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Appeal A Ref: APP/N5660/W/19/3225727

Atkins Road adjacent Angus House, London, SW12 0AS

Grid Reference Easting: 530030 and Grid Reference Northing: 173698

- The application Ref 18/03429/G24, dated 6 August 2018, was refused by notice dated 1 October 2018.
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Appeal B Ref: APP/N5660/W/19/3229254

Adjacent 2 Tulse Hill, London, SW2 2TP

Grid Reference Easting: 531158 and Grid Reference Northing: 174570

- The application Ref 18/04242/G24, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal C Ref: APP/N5660/W/19/3229255

Streatham Hill adjacent Coulsdon House, London, SW2 4AA

Grid Reference Easting: 530406 and Grid Reference Northing: 173281

- The application Ref 18/04254/G24, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal D Ref: APP/N5660/W/19/3229260

Tulse Hill adjacent Tulse House, London, SW2 2HT

Grid Reference Easting: 531205 and Grid Reference Northing: 174199

- The application Ref 18/04268/G24, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Appeal E Ref: APP/N5660/W/19/3229261

Wandsworth Road rear of Moresby Walk, London, SW8 3AU

Grid Reference Easting: 529046 and Grid Reference Northing: 176032

- The application Ref 18/04279/G24, dated 1 October 2018, was refused by notice dated 26 November 2018.
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Decisions

1. Appeals A- E are 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 and Background

3. The appeals relate to proposals by Maximus Networks Ltd for the installation of a call box at five sites in the London Borough of Lambeth. 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 permission for the installation, alteration or replacement of 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 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 kiosks, I have not taken these matters into account other than in respect of heritage assets where the NPPF 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."
6. The proposals before me were refused by the Council on grounds relating to siting and appearance. However, the *Westminster* 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).
7. In the case of the appeals before me, I have taken into account the submitted Opinion of Counsel regarding this matter and the description of the proposed kiosks provided. It is apparent that the form and design of the proposed telecommunications apparatus is driven by its proposed functionality as a public call box. I have no evidence to suggest that the proposed development includes elements that are there for the purpose of advertising. Consequently, on the basis of the evidence provided in these appeals, I consider that the proposals are for the purpose of the operator's electronic communications network.
8. The Council has made reference in its decision notices to Policies T1, T10, Q3, Q5 and Q6 of the Lambeth Local Plan (2015) 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 in so far as they are relevant to matters of siting and appearance. The appellant refers also to guidance within The London Plan (2016) as well as Streetscape Guidance (2019) and the Pedestrian Comfort Guidance for London (2015), both produced by Transport for London (TfL) and the Mayor of London which I have taken into account.

9. The proposed kiosks are relatively simple, thin, freestanding structures with a canopy which serves as a shelter and is made of the solar panels that will power the payphone. In addition, the widest faces of the call box incorporate photovoltaic glass to maximise the energy generating potential. LED lighting strips on the outside edges of the call box are included for safety purposes, solely to identify the edge of the structure on the pavement during hours of darkness and will be in a customisable contrasting colour. The submitted details indicate that the overall colour of the kiosk is customisable but would typically be 'gun metal' grey or black and will have a 'sheen' through the integral use of toughened glass and photovoltaic glass in the structure. The proposed structure would be 3.119m high, 1.325m wide and 0.219 m deep.
10. I note that no indication has been provided as to the precise orientation of the telephone kiosks in each case. As such, I have determined the appeals with reference to the identified footprint on the appellant's submitted photographs.

Main Issues

11. The main issues are:

- For Appeals A, B, and D, whether or not approval should be given in respect of the siting and appearance of the proposed development, with particular regard to its effect on the character and appearance of the area, and its effect upon the safe and efficient operation of the highway, and
- for appeals C and E, whether or not approval should be given in respect of the siting and appearance of the proposed development, with particular regard to whether it would preserve or enhance the character or appearance of the conservation area or preserve the setting of listed buildings, and its effect upon the safe and efficient operation of the highway.

Reasons

Appeal A- Atkins Road adjacent Angus House, London, SW12 0AS

12. The appeal site is located on a relatively wide footway on Atkins Road, close to the junction with Forster Road. Angus House is set back from the footway edge with a landscaped area between it and the footway edge, adding to the open character of the area. A bus stop is close to the site, along with road signs, lamp posts and trees. There is also a grit bin in vicinity of the proposed phone box, which although is a temporary structure, presently serves to reduce the width of the footway.

13. Atkins Road is the A205 part of the south circular distributor road. Although not a dual carriageway it is a wide straight road with pedestrian harbourages in the vicinity of the proposed call box and long views along the road. The proposed call box would be located on the outer edge of the footway.
14. The addition of the proposed call box would be visually discordant and result in a cluttered appearance that would detract from the spacious character and appearance of the street scene. The call box would be larger than the existing elements of street furniture and consequently, it would result in an impression of clutter and be visually obtrusive and prominent within the street scene.
15. Due to the proximity of the bus stop and pedestrian harbourages, pedestrians cross the road close to the appeal site. The location of the proposed kiosk could limit the visibility of oncoming traffic to the detriment of pedestrian safety.
16. For the reasons set out above, due to its siting and appearance, the proposed call box would have a harmful effect upon the character and appearance of the area and its siting would also be detrimental to the safe and efficient operation of the highway.

Appeal B- Adjacent 2 Tulse Hill, London, SW2 2TP

17. The appeal site is on Tulse Hill, close to the traffic light controlled junction with Brixton Water Lane. The proposed call box would be situated on the inside edge of the footway, adjacent to the wall and windows of a supermarket. It is within the designated Tulse Hill/ Brixton Water Lane Local Centre and opposite a row of retail and fast food premises. On the outer edge of the footway there are bollards to prevent parking on the footway which restricts the width available to pedestrians. There are also street trees and a bus stop in the vicinity of the proposed phone box along with grit bins, which although temporary structures, currently reduce the width of the footway. With the proposed call box being on the rear edge of the footway, it would cause a slalom effect with pedestrians having to negotiate around the street furniture.
18. As there are shops and services on both sides of the road pedestrians cross it at various points to use shops. The location of the proposed call box would limit the visibility of oncoming traffic to the detriment of pedestrian safety.
19. I note that a reason for refusal was related to the possibility of an increase in crime associated with the provision of the call box to the detriment of community safety. Although this is a material consideration there is no substantive evidence of crime levels in this particular location before this appeal. This issue is not therefore determinative in my consideration of the appeal.
20. The addition of the proposed call box would be visually discordant and result in a cluttered appearance that would detract from the spacious character and appearance of the street scene. The call box would be larger than the existing elements of street furniture and consequently, it would result in an impression of clutter and be visually obtrusive and prominent within the street scene. 21.
21. For the reasons set out above, due to its siting and appearance, the proposed call box would have a harmful effect upon the character and appearance of the area and its siting would also be detrimental to the safe and efficient operation of the highway.

Appeal C- Streatham Hill adjacent Coulsdon House, London, SW2 4AA

22. The appeal site is on the A23, Streatham Hill. In this location it is a dual carriageway with a bus lane and the centre of the road has a raised central reservation with planters. Coulsdon House is set back from the footway edge, separated by an open fence and a landscaped area giving the area an open character. There is a large tree on the rear of the footway in the vicinity of the appeal site along with TFL street furniture, a lamp post and road direction signs. On the approach to the site is a junction with Tierney Road and beyond is a bus stop. The proposed call box would be located on the front edge of the footway.
23. Pullman Court on the opposite side of road is a Grade II* listed building. The site is within the setting of that building. Historically, the listed building has been located adjacent to a busy road, with associated street furniture and activity. The call box would make a neutral contribution to the significance of the setting of the listed building and would therefore preserve its special interest.
24. I note that a reason for refusal was related to the possibility of an increase in crime associated with the provision of the call box to the detriment of community safety. Although this is a material consideration there is no evidence of crime levels in this particular location before this appeal.
25. However, the addition of the proposed call box would be visually discordant and result in a cluttered appearance that would detract from the spacious character and appearance of the street scene. The call box would be larger than the existing elements of street furniture and consequently, it would result in an impression of clutter and be visually obtrusive and prominent within the street scene.
26. Whilst the kiosk would be visible to passing drivers, and would be positioned close to the bus stop and junction with Tierney Street, I am unconvinced on the basis of the evidence before me, that it would cause a significant danger to road users.
27. Nevertheless, for the reasons set out above, due to its siting and appearance, the proposed call box would have a harmful effect upon the character and appearance of the area.

Appeal D- Tulse Hill adjacent Tulse House, London, SW2 2HT

28. The appeal site is on Tulse Hill. At this point the road is straight and relatively wide. There is a pedestrian harbourage in the vicinity of the site. On the opposite footway there is a bus stop and a school along with a road junction. Although the footway is wide there is a row of trees in centre of footway which causes the narrowing of the footway. There is also a grit bin in vicinity of the proposed phone box, which although is a temporary structure, currently serves to reduce the width of the footway. The call box is proposed to be sited on the outside edge of the footway.
29. I note that a reason for refusal was related to the possibility of an increase in crime associated with the provision of the call box to the detriment of community safety. Although this is a material consideration there is no substantive evidence of crime levels in this particular location before this appeal.

30. The addition of the proposed call box would be visually discordant and result in a cluttered appearance that would detract from the spacious character and appearance of the street scene. The call box would be larger than the existing elements of street furniture and consequently, it would result in an impression of clutter and be visually obtrusive and prominent within the street scene.
31. Due to the proximity of the bus stop and pedestrian harbourages, pedestrians cross the road close to the appeal site. The location of the proposed kiosk would limit the visibility of oncoming traffic to the detriment of pedestrian safety.
32. Therefore, for the reasons set out above, due to its siting and appearance, the proposed call box would have a harmful effect upon the character and appearance of the area and its siting would also be detrimental to the safe and efficient operation of the highway.

Appeal E- Wandsworth Road rear of Moresby Walk, London, SW8 3AU

33. The appeal site is on Wandsworth Road, close to the traffic light controlled junction with Silverthorne Road. It is within the Wandsworth Road Conservation Area (CA), a linear CA characterised mainly by 19th century terraced properties of a variety of scale and size. 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 conservation areas.
34. To the rear of the footway is a high brick wall with bungalows behind which are at a lower level so only the roofs are visible from the highway. Nevertheless, the call box would be larger than the existing elements of street furniture and consequently, it would result in an impression of clutter and be visually obtrusive and prominent within the street scene. As such it would detract from the appearance of the area.
35. Accordingly, the proposed call box would neither preserve nor enhance the character or appearance of the CA and, in respect of the significance of the heritage asset as a whole, would be less than substantial. Public benefits may arise from the proposal in terms of providing free calls and Wi-Fi to users. However, in this case, these benefits do not outweigh the harm to the heritage asset identified.
36. Beyond the proposed location is the entrance to a petrol station and a pedestrian entrance to Moresby Walk. Whilst the kiosk would be visible to drivers, I am unconvinced, on the basis of the evidence before me that it would cause such a distraction as to be a potential danger to highway users.
37. Nevertheless, for the reasons set out above, due to its siting and appearance, the proposed call box would have a harmful effect upon the character and appearance of the area, including heritage assets.

Other Matters

38. In relation to appeals A-E, my attention has been drawn to several other appeal decisions. I do not have the full details of the other cases and so cannot determine whether the circumstances are the same as the proposals 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 have their own settings. As such, the other appeal decision referred to are not determinative points in favour of the proposals.

Conclusion and Recommendation

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

Hilary Senior

APPEALS PLANNING OFFICER

Inspector's Decision

40. 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