



Appeal Decision

Site visit made on 7 June 2019

by F Rafiq BSc (Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2020

Appeal Ref: APP/H5960/W/18/3210666

Putney Hill corner Chartfield Avenue, London, SW15 6QY

- The appeal is 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, 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 Wandsworth.
 - The application Ref 2018/0307 dated 18 January 2018 was refused by notice issued with a date of 13 March 2018.
 - The development proposed is the installation of a call box.
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Decision:

1. The appeal is dismissed.

Procedural Matters

2. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed payphone kiosk (also known as a public 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 prior approval by the local planning authority of siting and appearance. The appellant applied to the Council on that basis. The Council determined that prior approval was required and refused for the siting and appearance of the call box subject to this appeal.
3. On 25 May 2019, the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 came into force, amending the GPDO 2015. This amendment removes the permitted development right to install a public call box under Schedule 2, Part 16, Class A of the GPDO. However, transitional and saving provisions at Part 5 of the 2019 Regulations provide that where an appeal has been made within 6 months of the date of notice of refusal of a prior approval application submitted before 25 May 2019, the planning permission granted by Schedule 2, Part 16, Class A continues to have effect in relation to a public call box as if the amendments made to the GPDO 2015 by the 2019 Regulations had not been made. That is the case in respect of this appeal before me.
4. The Council have made reference in the decision notice to various policies. In general terms, and amongst other things, these require high quality development, including street furniture which reflects the character and appearance of surrounding buildings, maintains uncluttered spaces, avoids

- visual intrusion, contributes to ease of movement through the public realm, and encourages a simplified streetscape. At paragraph 11.1 the TfL Streetscape Guidance 2017 ('Streetscape Guidance') sets out that there is no 'one solution fits all' approach, but it seeks to avoid a cluttered environment as a result of excessive street furniture. I also note that a new London Plan is being prepared, and that the Mayor has issued his intention to publish the London Plan following the receipt of the Inspectors' recommendations.
5. The principle of development however is established by the GPDO 2015 and prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO 2015 includes no requirement that regard be had to the development plan. The provisions of the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. I, therefore, take account of the referenced policies of the development plan, including emerging policies and any related guidance in so far as they are a material consideration relevant to matters of siting and appearance.
 6. I have also considered the National Planning Policy Framework ('Framework') which supports high quality and reliable communications infrastructure and, in general terms, requires high quality design. At paragraph 116 it also sets out that local planning authorities should not question the need for an electronic communications system. Whilst the Framework has been revised since the application was determined, its stance in these respects has not significantly changed.
 7. The determination of this appeal follows a High Court judgement in the decision of *Ouseley J in Westminster CC v. SSHCLG & New World Payphones Ltd* [2019] EWHC 176 (Admin). The decision in this case concluded that the relevant telephone kiosk was for the dual purpose of advertisement display and telecommunications use, stating that it contained features which were for advertising and not there at all for the telecommunications function.
 8. In respect of this appeal case, and whilst noting the Council's second reason for refusal, based on the evidence before me, including the submitted drawings and technical details, I find that it does not clearly show that the proposed telephone kiosk is intended to support advertising. I have taken into account that deemed consent allows for a non-illuminated advertisement on the glazed surface of one face of the kiosk. However, in the absence of any particular advertising elements or features, to me this appeal should not be considered to constitute a dual purpose and therefore prior approval consideration of siting and appearance must be considered.
 9. Reference has been made to appeal decisions on other sites, but I am not aware of the full circumstances of those cases. I can confirm that I have considered this appeal on its own merits.

Main Issues

10. The main issues are:

- i) the effect of the siting and appearance of the proposed call box upon the character and appearance of the area; and
- ii) the effect of the siting of the proposal on the safety and convenience of highway users.

Reasons

Background

11. The appeal relates to a proposed free standing call box of a rectangular form. It would have an overhanging roof with an area of around 1.325 metre by 1.125 metre and would be about 2.6 metre high. It would be constructed with a steel frame and casings, and clear polycarbonate and toughened glass, with a solar panel on the roof.

Character and appearance

12. The proposed call box would be located on the pavement close to the busy junction of Putney Hill with Chartfield Avenue. It would be sited adjacent to an existing public call box, with highway signage and a bus shelter to the north on this stretch of the pavement.
13. The proposed call box would broadly align with the existing one. However, the scheme would result in two fairly sizable pieces of street furniture virtually adjacent to one another, and would therefore give rise to a cramped appearance in the streetscene.
14. The scheme's open front, and narrow, largely transparent sides would give it a fairly simple and lightweight appearance, and would temper its visual bulk. I note reference to its functional design that avoids a pastiche approach and that it would use high quality materials. However, its dimensions, and particularly its design, would be notably different to the existing call box and I do not therefore agree that it would be consistent with the general design of other street furniture. This contrast would serve to draw the eye and would thereby exacerbate the harm caused as a result of the scheme's cramped siting in this prominent corner location.
15. Consequently, and whilst noting that the proposal would not adversely impact any views of or from designated heritage assets, I find that its siting and appearance would significantly harm the character and appearance of the area.

Highway safety

16. According to the appellant's estimates, pedestrian flows in the area are 'low' when applying the TfL Pedestrian Comfort Guidance for London 2010 ('Comfort Guidance') and this was reflected in my observations at the time of my visit. The section of pavement where the call box would be located has been measured by the appellant at 4.3 metres wide. Allowing for its 0.45 metre set back from the carriageway edge this would still leave a 2.6 metre wide clear zone.
17. The Streetscape Guidance suggests a preferred minimum footway clear zone of 2 metres to allow for unhindered pedestrian movement; and the Comfort Guidance recommends that, in areas with a low flow, a footway width of 2.9 metres is enough for comfortable movement as well as accommodating a large piece of street furniture. On the basis of the evidence before me, the scheme would not conflict with that advice.
18. Given its limited size and its alignment with the existing call box, I am not persuaded that the proposal would significantly affect views of southbound traffic on the opposite side of Putney Hill for drivers emerging from Chartfield

Avenue at this signal controlled junction. Whilst I note the corner building at this location is chamfered and the Council states that the road accident record here is poor, I have no detailed evidence of any incidents or their causes.

19. The Council have made a general reference to a programme of upgrades to roads and pavements within the Borough, which include efforts to improve the amenity of the streetscene. However, I have no detailed information before me of any such proposal.
20. For all the above reasons, I conclude that the siting of the appeal scheme would not have a significant adverse impact on the safety and convenience of highway users.

Conclusion

21. For the reasons given above and having regard to all matters raised, including the referenced public benefits, such as providing some free calls, I conclude that the appeal should be dismissed given the harm identified from the siting and appearance of the proposal upon the character and appearance of the area.

F Rafiq

INSPECTOR