



Appeal Decision

Site visits 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 A Ref: APP/H5960/W/18/3210662

88 Putney High Street, London, SW15 1RB

- 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 2018/0304 dated 18 January 2018 was refused by notice dated 13 March 2018.
 - The development proposed is the installation of a call box.
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Appeal B Ref: APP/H5960/W/18/3210664

Upper Richmond Road junction with Putney High Street, London, SW15 2SH

- 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 2018/0306 dated 18 January 2018 was refused by notice dated 13 March 2018.
 - The development proposed is the installation of a call box.
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Appeal C Ref: APP/H5960/W/18/3210838

149 Upper Richmond Road, London, SW15 2TX

- 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 2018/0353 dated 22 January 2018 was refused by notice dated 20 March 2018.
 - The development proposed is the installation of a call box.
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Decisions:

Appeal A

1. The appeal 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 88 Putney High Street, London SW15 1RB in accordance with the terms of the application Ref 2018/0304, dated 18 January 2018, and the plans submitted with it.

Appeal B

2. The appeal 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 Upper Richmond Road junction with Putney High Street, London SW15 2SH in accordance with the terms of the application Ref 2018/0306, dated 18 January 2018, and the plans submitted with it.

Appeal C

3. The appeal 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 149 Upper Richmond Road, London SW15 2TX in accordance with the terms of the application Ref 2018/0353, dated 22 January 2018, and the plans submitted with it.

Procedural Matters

4. 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's subject to each of these appeals.
5. 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 each of the appeals before me.
6. The Council have made reference in the decision notices 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. They also seek a high quality pedestrian environment by reference to Transport for London ('TfL') Pedestrian Design Guidance. In respect of Appeal B, reference is made to a policy which

concerns redevelopment proposals on Upper Richmond Road, including improvements to the public realm. 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. In its consultation response, TfL referred to emerging policies in that plan, which I have also considered.

7. 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.
8. 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. Whilst noting the Council's first reason for refusal on each of the decision notices, relating to the failure to demonstrate that the proposals are required for the operator's communication network, paragraph 116 of the Framework 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.
9. The determination of each of these appeals 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.
10. In respect of each of the appeal cases, based on the evidence before me, including the submitted drawings and technical details, I find that they do not clearly show that the proposed call box's are 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 a call box. However, in the absence of any particular advertising elements or features, to me these appeals should not be considered to constitute a dual purpose and therefore prior approval consideration of siting and appearance must be considered.
11. 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 these appeals on their own merits.

Main Issues

12. The main issues in each appeal 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

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

Appeal A

Character and appearance

- 14. The proposed call box would be located on the pavement of Putney High Street, some distance away and broadly to the north of the other appeal sites (Appeal's B and C). The surrounding area in this part of the town centre is busy, with a range of multi-storey commercial buildings, typically with shop fronts and restaurants at ground floor, located at the back edge of the pavement.
- 15. The call box would be located a little distance from an elevated 'car parking' sign and a refuse bin to the north, with a larger gap to existing street furniture to the south. In the wider area, spread out along this stretch of pavement, there are also street lamps, cycle stands, trees and railings.
- 16. The proposed call box would be set back 0.45 metre from the kerb in a position where it would broadly align with much of the existing street furniture relative to the carriageway. That alignment, and the scheme's lightweight design, would also assist in limiting its prominence and its visual bulk. I do not agree that its footprint or height would be of a size that would make it a bulky or discordant feature.
- 17. I understand that the Council has previously funded the removal of phone boxes from Putney High Street to make more space for pedestrians, and has also agreed a strategy here to improve the public realm. However, I have very few details of those initiatives.
- 18. Given the scheme's design and the space around it, the site's context, and the width of the pavement, which according to the appellant's drawings and calculations is around 4.6 metres, the scheme would not give rise to a cramped or cluttered appearance, or look incongruous in the streetscene. The siting and appearance of the proposal would not therefore unacceptably harm the character and appearance of the area.

Highway safety

19. According to the appellant's estimates, pedestrian flows in the area fall just within the 'low' category when applying the TfL Pedestrian Comfort Guidance for London 2010 ('Comfort Guidance'). Whilst the area was busy at the time of my visit, I have no cogent reason to doubt that finding.
20. Given the pavement's width, and the retained 2.7 metre clear zone between the proposed call box and the front of the nearby buildings, the scheme would satisfy the advice on pavement dimensions as set out in the Comfort Guidance and the Streetscape Guidance, whatever the intended orientation of the call box given that it is set away from the kerb edge.
21. Given the width of the clear zone and the call box's alignment with, but gap to, existing items of street furniture, the proposal would not cause a significant inconvenience or safety concern to pedestrians using the footway, or to those accessing the carriageway or crossing to the other side of Putney High Street.
22. For all those reasons, I conclude that the siting of the proposal would not have a significant adverse impact on the safety and convenience of highway users.

Appeal B

Character and appearance

23. The proposed call box would be located on the pavement on the northern side of Upper Richmond Road close to its junction with Putney High Street. This is a busy commercial environment in Putney town centre, with some substantial buildings and many advertisements nearby. This stretch of the pavement already contains various items of street furniture, including public call boxes, highway signage, a Royal Mail post box and cycle stands.
24. Reference has been made to other telephone kiosks, and I was able to see a BT In-Link Kiosk near the appeal site at the time of my visit. The proposed call box would be located between this existing kiosk and a street lamp. However, it would be sited a little way from those features and roughly equidistant between them. In terms of its siting relative to the carriageway edge, it would broadly align with them. That spacing and alignment would help to ensure that the proposal would be reasonably assimilated into the streetscene, where a variety of street furniture can be seen.
25. Moreover, 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, with the Council acknowledging that the scale of the proposal is standard for a development of this nature.
26. Consequently, although the scheme would introduce an additional piece of street furniture into the area, in this busy commercial environment, it would not appear incongruous or give rise to a significant sense of clutter.
27. Both main parties have referred me to appeal decisions concerning call boxes elsewhere. However, for the above reasons, I conclude that the siting and appearance of the call box in this location would not adversely harm the character and appearance of this area.

Highway safety

28. According to the appellant's estimates, pedestrian flows in the area fall just within the 'low' category when applying the Comfort Guidance. Whilst the area was busy at the time of my visit, I have no cogent reason to doubt that finding.
29. The section of pavement where the call box would be located has been measured by the appellant at 4.5 metres wide. TfL states that the scheme 'looks to provide less than a 2 metre (wide) clear footway'. However, allowing for the call box's 0.45 metre set back from the kerb and vehicular carriageway (with reference also having been made to it being next to a cycle superhighway), the calculations provided by the appellant shows that there would be a 2.8 metre wide clear zone.
30. 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 and to accommodate a large piece of street furniture. On the basis of the evidence before me, the scheme would not conflict with that advice.
31. Moreover, the proposed call box would broadly align with existing street furniture relative to the carriageway, and would leave retained gaps either side. Concern has been raised that the location of the proposal is where people congregate to cross a busy main road. However, there is a signal controlled pedestrian crossing facility at the nearby junction.
32. This part of Upper Richmond Road undoubtedly experiences pressure for various highway related uses. However, for the above reasons, whatever the call box's intended orientation, I consider that the scheme would not act as a significant obstruction such as to inconvenience pedestrians using the pavement or crossing the road, or to hinder their safety.
33. The Council states that it has a programme of upgrades to roads and pavements within the Borough, which includes efforts to improve the amenity of the streetscene, and that public realm improvements are a key strategy for this area. More specifically, TfL refers to a planned scheme of footway renewal and decluttering on this section of Upper Richmond Road. However, I have no detailed information before me of such a scheme, nor what impact it will have on this area.
34. For all those reasons, and whilst having considered the recommendation from TfL, I conclude that the siting of the proposal would not have a significant adverse impact on the safety and convenience of highway users.

Appeal C

Character and appearance

35. The proposed call box would be located on the pavement on the southern side of Upper Richmond Road, broadly opposite the site of Appeal B. The commercial context and the characteristics here are therefore very similar. However, the appellant's drawings and other calculations show that this section of pavement is slightly wider, at 5.5 metres.

36. The call box would be located between a group of cycle stands and utility cabinets, to which it would broadly align relative to the carriageway edge. There is also a lamp post, an existing call box and a bus shelter nearby.
37. As with Appeal B, the scheme would introduce an additional item of street furniture into the streetscene. That in an area where the Council and TfL refer to a planned scheme of footway renewal and decluttering – although I have no detailed information of that before me.
38. However, the proposed call box would be reasonably spaced between existing items of street furniture, with gaps to its sides. That spacing, and its set back from the carriageway edge similar to other street furniture, would assist its integration into the streetscene. I have also found that its design would limit its apparent bulk. It would not therefore appear incongruous in this location.
39. Both main parties have referred me to appeal decisions concerning call boxes elsewhere. However, for the above reasons, I conclude that the siting and appearance of the call box in this location would not adversely harm the character and appearance of this area.

Highway safety

40. As with Appeal B, according to the appellant's estimates, pedestrian flows in the area fall just within the 'low' category when applying the Comfort Guidance. Whilst the area was busy at the time of my visit, I have no cogent reason to doubt that finding.
41. Given the pavement's width, and the retained 3.6 metre clear zone between the proposed call box and the nearby buildings as set out on the drawings, the scheme would satisfy the advice on pavement dimensions in the Comfort Guidance and the Streetscape Guidance.
42. The call box's alignment with existing street furniture would prevent it from having a significant impact on the convenience and safety of pedestrians walking along the pavement, whatever the intended orientation of the call box, given that it is set away from the kerb edge. I note the reference to the area of the appeal site being a 'rare' gap, but the proposal would retain gaps either side of the call box and would allow access to be gained to and from the carriageway, including the taxi bay, and for those accessing the nearby cycle parking provision from the cycle lane.
43. For all those reasons, whilst I have considered the recommendation from TfL, I conclude that the siting of the proposal would not have a significant impact on the safety and convenience of highway users.

Conditions

44. The Council has suggested a single condition in the event that the appeal is allowed. However, any planning permission granted for a call box under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2). These 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 received the application, and must be removed as soon as reasonably practicable after it is no longer

required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

45. For the reasons given above and having regard to all matters raised, I conclude that the appeals should be allowed and prior approval granted.

F Rafiq

INSPECTOR