

Appeal Decisions

Site visits made on 7 August 2018

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th October 2018

Appeal A Ref: APP/K5600/W/17/3190377

Pavement outside 96c Kensington High Street, London W8 4SH

- 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) Order 2015.
 - The appeal is made by Mr Matthew Coe on behalf of New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PA/17/05038, dated 18 August 2017, was refused by notice dated 27 September 2017.
 - The development proposed is 'replacement telephone kiosk with different design on pavement'.
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Appeal B Ref: APP/K5600/Z/17/3190131

Pavement outside 94 Kensington High Street, London W8 4SH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Matthew Coe on behalf of New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/17/03289, dated 18 May 2017, was refused by notice dated 29 September 2017.
 - The advertisement proposed is 'illuminated digital advertisement display panel within replacement telephone kiosk'.
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Appeal C Ref: APP/K5600/W/17/3190411

Pavement outside 120-122 Kensington High Street, London W8 7RL

- 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) Order 2015.
 - The appeal is made by Mr Matthew Coe on behalf of New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PA/17/05044, dated 18 August 2017, was refused by notice dated 27 September 2017.
 - The development proposed is 'replacement telephone kiosk with different design on pavement'.
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Appeal D Ref: APP/K5600/Z/17/3190147

Pavement outside 120-122 Kensington High Street, London W8 7RL

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Matthew Coe on behalf of New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/17/03298, dated 18 May 2017, was refused by notice dated 29 September 2017.
 - The advertisement proposed is 'illuminated digital advertisement display panel within replacement telephone kiosk'.
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Appeal E Ref: APP/K5600/W/17/3190416

Pavement outside 164-166 Kensington High Street, London W8 7RG

- 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) Order 2015.
 - The appeal is made by Mr Matthew Coe on behalf of New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PA/17/05032, dated 18 August 2017, was refused by notice dated 27 September 2017.
 - The development proposed is 'replacement telephone kiosk with different design on pavement'.
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Appeal F Ref: APP/K5600/Z/17/3190157

Pavement outside 166 Kensington High Street, London W8 7RG

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Matthew Coe on behalf of New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/17/03300, dated 18 May 2017, was refused by notice dated 29 September 2017.
 - The advertisement proposed is 'illuminated digital advertisement display panel within replacement telephone kiosk'.
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Appeal G Ref: APP/K5600/W/17/3190419

Pavement outside 227 Kensington High Street, London W8 6SA

- 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) Order 2015.
 - The appeal is made by Mr Matthew Coe on behalf of New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PA/17/05042, dated 18 August 2017, was refused by notice dated 27 September 2017.
 - The development proposed is 'replacement telephone kiosk with different design on pavement'.
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Appeal H Ref: APP/K5600/Z/17/3190165

Pavement outside 227 Kensington High Street, London W8 6SA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Matthew Coe on behalf of New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/17/03299, dated 18 May 2017, was refused by notice dated 29 September 2017.
 - The advertisement proposed is 'illuminated digital advertisement display panel within replacement telephone kiosk'.
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Appeal I Ref: APP/K5600/W/17/3190396

Pavement outside 102 Notting Hill Gate, London W11 3QA

- 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) Order 2015.
 - The appeal is made by Mr Matthew Coe on behalf of New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PA/17/05030, dated 18 August 2017, was refused by notice dated 27 September 2017.
 - The development proposed is 'replacement telephone kiosk with different design on pavement'.
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Appeal J Ref: APP/K5600/Z/17/3190142

Pavement outside 102 Notting Hill Gate, London W11 3QA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Matthew Coe on behalf of New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/17/03296, dated 18 May 2017, was refused by notice dated 29 September 2017.
 - The advertisement proposed is 'illuminated digital advertisement display panel within replacement telephone kiosk'.
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Decisions

Appeal A

1. The appeal is allowed and approval is granted under the provisions of 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 replacement telephone kiosk with different design on the pavement outside 96c Kensington High Street, London W8 4SH in accordance with the terms of the application Ref PA/17/05038, dated 18 August 2017, and the plans submitted with it.

Appeal B

2. The appeal is allowed and express consent is granted for illuminated digital advertisement display panel within replacement telephone kiosk on pavement outside 94 Kensington High Street, London W8 4SH, as applied for. The consent is granted for a period of five years from the date of this decision and is
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subject to the five standard conditions set out in the Regulations and to the additional conditions included in the Schedule at Annex A.

Appeal C

3. The appeal is allowed and approval is granted under the provisions of 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 replacement telephone kiosk with different design on the pavement outside 120-122 Kensington High Street, London W8 7RL in accordance with the terms of the application Ref PA/17/05044, dated 18 August 2017, and the plans submitted with it.

Appeal D

4. The appeal is allowed and express consent is granted for illuminated digital advertisement display panel within replacement telephone kiosk on the pavement outside 120-122 Kensington High Street, London W8 7RL, as applied for. The consent is granted for a period of five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions included in the Schedule at Annex A.

Appeal E

5. The appeal is allowed and approval is granted under the provisions of 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 replacement telephone kiosk with different design on the pavement outside 164-166 Kensington High Street, London W8 7RG in accordance with the terms of the application Ref PA/17/05032, dated 18 August 2017, and the plans submitted with it.

Appeal F

6. The appeal is allowed and express consent is granted for illuminated digital advertisement display panel within replacement telephone kiosk on the pavement outside 166 Kensington High Street, London W8 7RG, as applied for. The consent is granted for a period of five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions included in the Schedule at Annex A.

Appeal G

7. The appeal is allowed and approval is granted under the provisions of 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 replacement telephone kiosk with different design on the pavement outside 227 Kensington High Street, London W8 6SA in accordance with the terms of the application Ref PA/17/05042, dated 18 August 2017, and the plans submitted with it.

Appeal H

8. The appeal is allowed and express consent is granted for illuminated digital advertisement display panel within replacement telephone kiosk on the pavement outside 227 Kensington High Street, London W8 6SA, as applied for. The consent is granted for a period of five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions included in the Schedule at Annex A.

Appeal I

9. The appeal is allowed and approval is granted under the provisions of 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 replacement telephone kiosk with different design on the pavement outside 102 Notting Hill Gate, London W11 3QA in accordance with the terms of the application Ref PA/17/05030, dated 18 August 2017, and the plans submitted with it.

Appeal J

10. The appeal is allowed and express consent is granted for illuminated digital advertisement display panel within replacement telephone kiosk on the pavement outside 102 Notting Hill Gate, London W11 3QA, as applied for. The consent is granted for a period of five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions included in the Schedule at Annex A.

Procedural Matters

11. The ten appeals addressed here involve five proposals for replacement telephone kiosks and five related proposals to display a digital advertisement as an integral part of each kiosk. The appellant is the same in all the appeals and four of the appeal sites are situated along Kensington High Street with the other nearby in Notting Hill Gate. For these reasons, the ten appeals are dealt with in this single decision document, although each case is considered on its individual merits. The site address and description of development in each case are taken from the appeal form to provide certainty of the proposal subject to the appeal.
12. A revised version of the National Planning Policy Framework (the Framework) was published on 24 July 2018. The content of the revised Framework has been considered but in light of the facts in these cases it does not alter my conclusions.
13. As an electronic communications code operator, the appellant benefits from deemed planning permission for a payphone kiosk as proposed in Appeals A, C, E, G and I that falls within the permitted development rights of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), subject to the prior approval requirements under paragraph A.3. The appellant applied to the Council on that basis. The

Council determined that prior approval was required in each case and it was refused in each due to the appearance of the payphone kiosk.

14. The Framework deals with supporting high quality communications infrastructure, including applications for prior approval, and requires that local planning authorities must determine applications on planning grounds. As the principle of development is established by the GPDO, considerations such as need for the payphone kiosks are not a relevant matter.
15. With regard to Appeals A, C, E, G and I the Council makes reference to Policies CL1, CL3, CL6, CR4, CR6 and CV1 of its Consolidated Local Plan. However, the principle of development is established by the GPDO and the prior approval provisions include 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 on the basis of its siting and appearance, taking into account any representations received. Nonetheless, I have had regard to the above-mentioned policies and guidance within the Transport and Streets Supplementary Planning Document, in so far as they are relevant to matters of appearance.
16. The Council has expressed concern that the purpose of the proposed kiosks is primarily to facilitate the display of large digital advertisements. However, the construction of a kiosk and the display of advertisements are distinct and separate matters requiring different applications where necessary. Proposed illuminated advertisements on each of the five kiosks were refused by the Council and are considered separately under Appeals B, D, F, H and J.
17. Both main parties refer to pre-application engagement focused on proposals for upgrading and rationalising the existing telephone kiosks across the Borough as a whole. This involved consideration of the proposals the subject of these appeals, amongst others. While I note this engagement, it does not have a direct bearing on determination of the appeals as these have been considered on their merits based on the appeal submissions and the site inspections.

Main Issues

Appeals A, C, E, G and I

18. The reason for refusal is the same for each of the proposals for a telephone kiosk, subject to paragraph 20 below. Accordingly, the main issue for each proposal is whether or not approval should be given in respect of the siting and appearance of the proposed kiosk, with particular regard to the effect on the character and appearance of the area.

Appeals B, D, F, H and J

19. The reason for refusal is the same for each of the proposals for an illuminated advertisement, subject to paragraph 20 below. Accordingly, the main issue for each is the effect of the advertisement on the amenity of the area.

20. The sites in respect of Appeals A, C and E (and the related advertisement Appeals B, D and F) are located within the Kensington Conservation Area. Therefore, in each case I have taken account of the statutory requirement that in exercising planning functions in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area¹.

Reasons

21. The existing telephone kiosk to be replaced in each case is a fully enclosed structure with a solid panel housing the telephony equipment and glazed sides and door. The proposed kiosk is more open, the main element being the panel to house the telephony equipment, the reverse of which would incorporate an integrated LCD digital display panel. The kiosk would also include a short, glazed side panel.

22. The advertisement panel integrated in each kiosk would display static advertising images in sequence, changing no more frequently than every ten seconds. The illumination brightness of the display would be controlled by a light sensor.

23. The Kensington Conservation Area is a large, densely-developed urban area, including a high proportion of housing as well as buildings in municipal, institutional and commercial uses. The stretch of Kensington High Street that includes four of the appeal sites has an uninterrupted series of retail and commercial uses at street level. Most shopfronts are of contemporary appearance with predominantly fascia signs to advertise their use.

24. The tallest pre-WWII buildings in the conservation area are located along Kensington High Street, with predominantly Victorian or early twentieth century buildings, typically of four to five storeys height, above the shops in the vicinity of the appeal sites. The appeal proposals have been considered against this context, but specific relevant matters are referred to in the consideration of each individual appeal.

Appeal A

25. The existing kiosk is located on the pavement outside No 96c, a modern shop frontage with a more modern building above than is typical for the area as a whole, although the scale of buildings above street level reflects the character of the wider area. The kiosk is generally in a poor condition. The new kiosk would have a slightly smaller footprint than the existing one, but would be marginally taller and wider, although of reduced depth. The rear panel would be parallel to the road, with the open frontage facing the pavement.

26. The appellant explains that the new kiosk design, while modern in function draws influence from UK telephone kiosk design heritage. This appears to be

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

particularly the case with regard to the roof shape and glazed side panel. These design features and particularly the incorporation of the 'telephone' signage to each side of the roof, would clearly indicate its principal purpose and function, despite the advertisement panel to the rear. While the proposed kiosk would include obscured glazing this forms a small part of it and while it would have a broader frame than the existing kiosk, its open design contrasts favourably with the existing enclosed kiosk. Taking these factors as a whole, as well as the broadly similar dimensions of the two kiosks, the replacement would not be significantly more visually prominent than the existing kiosk.

27. Within the immediate setting the replacement of the unsightly kiosk with a new kiosk of more modern and open design would be an improvement to the area's appearance. The black colour scheme would integrate visually with other forms of street furniture of a similar colour, notably the nearby equipment boxes and frame of the bus shelter on the opposite side of the road.
28. Existing street furniture in this part of the High Street includes street lights, traffic lights, equipment boxes and two other kiosks outside No 108. These different features are sufficiently well-spaced, with a regularity to their appearance in this part of the street that they do not appear uncoordinated or otherwise cluttered. The replacement kiosk would not alter this overall relationship and appearance of street furniture.
29. The positive character and appearance of this part of the conservation area derives from the upper storeys and historic facades either side of the road. The limited scale and modern appearance of the kiosk would be viewed not against this background but principally against the busy commercial street level with its modern retail signage, other street furniture and high levels of vehicular and pedestrian traffic. As such, it would reflect rather than harm the character and appearance of the area directly related to its siting.
30. Accordingly, for all the above reasons, I conclude that the siting and appearance of the proposed kiosk would preserve the character and appearance of the Kensington Conservation Area. Therefore, the appeal should succeed.

Appeal B

31. For the avoidance of doubt due to the different addresses involved, the proposed advertisement would form an integral part of the kiosk proposed under Appeal A.
32. The rear of the kiosk incorporating the advertisement would face the street and, therefore, would be seen from here and the pavement opposite in the context of the large fascia signs of the shops behind. With regard to its size, the advertisement panel would be around 25% smaller in terms of display area than a standard 6-sheet advertising display. As such, and framed against these larger forms of advertisement, it would not be overly prominent due to its size. The Council expresses concern about the overall size of the advertisement housed in the surrounding panel of the kiosk. However, this reflects the

integrated nature of the advertisement in the functional kiosk and as a whole the effect would not be overly prominent compared to the scale of existing advertisements and other street furniture.

33. Similar forms of illuminated advertisement exist on the bus shelter on the opposite side of the road, reflecting the busy, commercial nature of the High Street. The proposed form of illuminated advertisement would not, therefore, be uncharacteristic of the surrounding area. Moreover, as there are no other examples of this type of advertisement on this side of the street close to the kiosk the proposal would not appear cluttered or a form of overly-intensive signage.
34. The appellant explains that during periods of darkness the display's illumination would be restricted to a maximum brightness of 280cd/m^2 , which is within the levels recommended by the Institute of Lighting Professionals for installations located in urban areas. With these controls in place, the advertisement would not be too bright or overly prominent in its commercial setting.
35. Accordingly, for these reasons, I conclude that the proposal would not have a harmful effect on the amenity of the surrounding area and so would preserve the character and appearance of the Kensington Conservation Area. I have taken into account Policies CL3 and CR4 of the Consolidated Local Plan, which concern the effect of development on heritage assets including conservation areas and on the streetscape, and which, therefore, are material in this case. Given my conclusion above, the proposal does not conflict with these policies. Consequently, the appeal should succeed.

Appeal C

36. The appeal site is located west of that for Appeal A, outside Nos 120-122 which also has a modern shop frontage with period buildings above, reflecting the scale of the built form in the wider area. The kiosks involved in this case and Appeal A are sufficiently well separated in the street scene that there is no direct visual relationship between them.
37. The existing and proposed kiosks are the same in design and appearance as those in respect of Appeal A. As such, and given the similar context of this part of Kensington High Street, there is no basis to find differently to the findings in Appeal A in respect of the effects of the design, scale and appearance of the replacement kiosk compared to the existing one.
38. There are two bus shelters to the west of the kiosk's location as well as street lights and trees along the same block between two side roads. These are spaced at regular intervals across this stretch of pavement, giving a degree of uniformity and apparently planned separation between them. Consequently, the replacement kiosk would retain generous spaces either side of it and would not, therefore, appear cluttered in relation to other street furniture or a form of overdevelopment. Its black finish would also complement the dark frames of the nearby bus shelters.

39. Views of the kiosk would be framed by the taller shop fronts within the overall busy commercial setting, reflecting the existing character of the area. Therefore, for these above reasons, I conclude that the siting and appearance of the proposed kiosk would preserve the character and appearance of the Kensington Conservation Area, and so the appeal should succeed.

Appeal D

40. The proposed kiosk incorporating the advertisement would be orientated the same as that in Appeal B, facing the street and, similarly, would be seen in the context of the large fascia signs of the shops behind. Given its limited size, both compared to a standard 6-sheet advertising display and in its own right, seen against these larger forms of advertisement it would not be overly prominent. This is the case in respect of both the advertisement panel itself and in combination with its frame in the form of the rear kiosk panel.
41. Similar forms of illuminated advertisement exist on the nearby bus shelters. The proposed form of illuminated advertisement would not, therefore, be uncharacteristic of the surrounding area. While these are on the same side of the street as the kiosk, the advertisements are included on end panels facing east down the High Street. Consequently, the different positions of the advertisements in tandem with the spacing between them means that they would not visually compete with each other or otherwise give a cluttered appearance to this part of the street.
42. The controls over the maximum brightness of the advertisement during the hours of darkness would be the same as for the advertisement proposed under Appeal B. Therefore, for the same reasons, the advertisement would not be too bright or overly prominent in its commercial setting. I accept that there is no form of advertising at present on the existing kiosk. This does not, however, outweigh the above findings which are based on the proposal for a new illuminated advertisement.
43. Therefore, for these reasons, I conclude that the proposal would not have a harmful effect on the amenity of the surrounding area and so would preserve the character and appearance of the Kensington Conservation Area. I have taken into account Policies CL3 and CR4 of the Consolidated Local Plan, as described above in respect of Appeal B and which are material in this case. Given my overall conclusion, the proposal does not conflict with these policies. Therefore, the appeal should succeed.

Appeal E

44. The appeal site is located further west along the High Street from the kiosk in Appeal C. The existing kiosk is outside Nos 164-166, which, as with the locations in Appeals A and C, comprises modern shop frontages with period buildings above, reflecting the scale of the built form in the wider area. The kiosks involved in this case and Appeal C are sufficiently well separated in the street scene that there is no direct visual relationship between them.

45. The existing and proposed kiosks are the same in design and appearance as those in respect of Appeal A. As such, and given the similar context of this part of Kensington High Street, there is no basis to find differently to the findings in Appeal A in respect of the effects of the design, scale and appearance of the replacement kiosk compared to the existing one.
46. The nearest street furniture to the kiosk is a bus shelter some distance to the west. Consequently, the kiosk is a relatively isolated feature in the street scene and the replacement of the tired-looking existing kiosk with a more modern one will be an improvement and will not result in visual clutter or a form of overdevelopment.
47. As for the proposals in Appeals A and C, views of the kiosk would be framed by the taller shop fronts within the overall busy commercial setting, reflecting the existing character of the area. Therefore, for these above reasons, I conclude that the siting and appearance of the proposed kiosk would preserve the character and appearance of the Kensington Conservation Area, and so the appeal should succeed.

Appeal F

48. The proposed kiosk incorporating the advertisement would be orientated the same as those in Appeals B and D, facing the street and, similarly, would be seen in the context of the large fascia signs of the shops behind. Given its limited size, as described in Appeals B and D, seen against these larger forms of advertisement it would not be overly prominent. This is the case in respect of both the advertisement panel itself and in combination with its frame in the form of the rear kiosk panel, as found in Appeal B.
49. There are no other similar advertisements in the immediate surrounding part of the High Street. Such illuminated advertisements are, however, characteristic of the wider area as seen on bus shelters in particular. The proposal would not, therefore, be uncharacteristic of the High Street as a whole and, moreover, it would not visually compete with other similar advertisements or otherwise amount to a form of visual clutter in the street scene.
50. The controls over the maximum brightness of the advertisement during the hours of darkness would be the same as for the advertisement proposed under Appeal B. Therefore, for the same reasons, the advertisement would not be too bright or overly prominent in its commercial setting.
51. Therefore, for these reasons, I conclude that the proposal would not have a harmful effect on the amenity of the surrounding area and so would preserve the character and appearance of the Kensington Conservation Area. I have taken into account Policies CL3 and CR4 of the Consolidated Local Plan, as described above in respect of Appeal B and which are material in this case. Given my overall conclusion, the proposal does not conflict with these policies. Therefore, the appeal should succeed.

Appeal G

52. The appeal site is located further west along the High Street from the kiosk in Appeal E, but is on the opposite side of the street close to its junction with Abingdon Road. The existing kiosk is outside No 227, which, as with the locations in the other appeals along the High Street, comprises a modern shop frontage with period buildings above, reflecting the scale of the built form in the wider area. The site lies outside the Kensington Conservation Area. The kiosks involved in this case and Appeal E are sufficiently well separated in the street scene that there is no direct visual relationship between them.
53. Except for some minor details of the existing kiosk including its red frame and bi-fold door, this and the proposed replacement are the same in design and appearance as those in respect of Appeal A. As such, and given the similar context of this part of Kensington High Street, there is no basis to find differently to the findings in Appeal A in respect of the effects of the design, scale and appearance of the replacement kiosk compared to the existing one.
54. The only street furniture in the immediate vicinity of the kiosk is a street light directly next to it. As such, the proposal will not result in visual clutter or a form of overdevelopment and the replacement of the tired-looking existing kiosk with a more modern one will be an improvement. As with the replacement kiosks proposed in the previous three appeals, views of the kiosk would be framed by the taller shop fronts within the overall busy commercial setting, reflecting the existing character of the area.
55. I have had regard to other matters raised by an interested party. While the site is close to a conservation area boundary, the effects of the siting and appearance of the replacement kiosk as described would ensure that its setting is preserved. Concern is expressed that insufficient details were provided to enable a full appreciation of the kiosk's effects. However, the appeal submissions do include an illustrative diagram of the kiosk's position and its appearance and technical specifications. This information, all the other submitted material and the site inspection enabled me to consider the effect of the proposal on its merits. Procedural matters concerning notification and consultation arrangements are not within the scope of this appeal.
56. Therefore, for these above reasons, I conclude that the siting and appearance of the proposed kiosk would not have a harmful effect on the character and appearance of the area, and so the appeal should succeed.

Appeal H

57. The proposed kiosk incorporating the advertisement would be orientated the same as those in the three preceding advertisement appeals, although it would be on the opposite side of the High Street. Nonetheless, it would face the street and, similarly, would be seen in the context of the large fascia signs of the shops and commercial premises behind. Given its limited size, as already described in the preceding appeals, seen against these larger forms of advertisement it would not be overly prominent. This is the case in respect of

both the advertisement panel itself and in combination with its framing in the form of the rear kiosk panel.

58. There are no other similar advertisements in the immediate surrounding part of the High Street. Such illuminated advertisements are, however, characteristic of the wider area as seen on bus shelters in particular. The proposal would not, therefore, be uncharacteristic of the High Street as a whole and, moreover, it would not visually compete with other similar advertisements or otherwise amount to a form of visual clutter in the street scene.
59. The controls over the maximum brightness of the advertisement during the hours of darkness would be the same as for the advertisement proposed under Appeal B. Therefore, for the same reasons, the advertisement would not be too bright or overly prominent in its commercial setting.
60. An interested party raises concerns about public safety as a result of the advertisement. The display would show sequential images, changing no more frequently than every ten seconds. For this reason, and the commercial location with similar forms of advertisement along the street, I agree with the Council that the display would not unduly distract pedestrians or motorists and, therefore, would not harmfully effect highway safety.
61. Therefore, for the above reasons, I conclude that the proposal would not have a harmful effect on the amenity of the area. I have taken into account Policy CR4 of the Consolidated Local Plan, as described above in respect of Appeal B and which is material in this case. Given my overall conclusion, the proposal does not conflict with this policy. Accordingly, the appeal should succeed.

Appeal I

62. The description of the proposal is for replacement of an existing kiosk. However, there is currently no kiosk at the appeal site and the appellant refers to replacement of a kiosk that was located outside Nos 40-42 Notting Hill Gate, which is some distance from No 102. For these reasons, despite the description of the proposal, I have dealt with this appeal as involving a new telephone kiosk on the pavement outside No 102 Notting Hill Gate.
63. The new kiosk is the same design as the replacement kiosks in the preceding appeals and would be positioned with its short side panel facing the street and the back with the integrated digital advertisement facing west along the street. The appellant explains that the new kiosk design, while modern in function draws influence from UK telephone kiosk design heritage. This appears to be particularly the case with regard to the roof shape and glazed side panel. These design features and particularly the incorporation of the 'telephone' signage to each side of the roof, would clearly indicate its principal purpose and function, despite the advertisement panel to the rear.
64. This part of Notting Hill Gate has predominantly retail and commercial uses at street level with commercial or residential above. Building heights vary, but in

the vicinity of the appeal site are generally three to four storeys, although the much taller Campden Hill Towers building is just to the west of No 102.

65. There are a series of evenly spaced benches and street trees on this part of the wide pavement in front of No 102 and adjacent premises. There are also street lights and a bin nearby. The kiosk would be positioned in the relatively large gap between the bench and tree immediately opposite No 102. As such, despite the existing amount of street furniture and trees along this stretch of pavement, it would not appear cluttered or a form of overdevelopment seen in combination with these other features. Its limited scale compared to the adjacent trees, open design and small footprint would help in this regard. Furthermore, its black colour scheme would integrate well with the existing street furniture of a similar colour.

66. From both sides of the street, the limited scale and modern appearance of the kiosk would be viewed against the busy commercial street level with its modern retail signage, other street furniture and high levels of vehicular and pedestrian traffic. Moreover, it would not appear as visually prominent in this location in the context of the much taller backdrop of multi-storey buildings. Overall, it would reflect rather than harm the character and appearance of the area directly related to its siting. In reaching these findings I have had regard to representations from an interested party.

67. Therefore, for the above reasons, I conclude that the siting and appearance of the proposed kiosk would not have a harmful effect on the character and appearance of the area, and so the appeal should succeed.

Appeal J

68. The proposed advertisement would face west along the street and would be seen by approaching pedestrians and drivers in the context of the large fascia signs of the shops behind. Given its more limited size, both compared to a standard 6-sheet advertising display and in its own right, seen against these larger forms of advertisement, it would not be overly prominent. This is the case in respect of both the advertisement panel itself and in combination with its frame in the form of the rear kiosk panel.

69. Similar illuminated advertisements exist on the nearby bus shelter to the west. The proposed form of illuminated advertisement would not, therefore, be uncharacteristic of the surrounding area. The advertisements are included on end panels of the shelter and due to the spacing between them and the kiosk they would not visually compete with each other or otherwise give a cluttered appearance to this part of the street.

70. The controls over the maximum brightness of the advertisement during the hours of darkness would be the same as for the advertisement proposed under Appeal B. Therefore, for the same reasons, the advertisement would not be too bright or overly prominent in its commercial setting

71. Therefore, for the above reasons, I conclude that the proposal would not have a harmful effect on the amenity of the area. I have taken into account Policy CR4 of the Consolidated Local Plan, as described above in respect of Appeal B and which is material in this case. Given my overall conclusion, the proposal does not conflict with this policy. Accordingly, the appeal should succeed.

Other Matters

72. I have had regard to a number of other matters raised in respect of all the proposals by the Kensington Society.

73. As already noted, the Framework deals with supporting high quality communications infrastructure, including applications for prior approval, and requires that local planning authorities must determine applications on planning grounds. As the principle of development is established by the GPDO, considerations such as need for the payphone kiosks are not a relevant matter.

74. Within this context, the matters raised concerning the cumulative effects of existing and proposed kiosks, and other street furniture, have been considered in each case. Furthermore, in terms of concerns that the purpose of the proposed kiosks is primarily to facilitate the display of large digital advertisements, also as noted above, the construction of a kiosk and the display of advertisements are distinct and separate matters requiring different applications where necessary.

75. The overall number of applications and appeals for similar kiosks within the Council's area is not a matter that has a direct bearing on my consideration of these appeals, particularly as those other proposals are in different locations in the Borough and, therefore, have little effect on the siting and appearance of the proposed kiosks and related advertisements before me. I have considered the cumulative effect of the proposed kiosks and related advertisements in each individual case and found that no harm would occur in each case. Therefore, while I have had full regard to the matters raised, for the reasons given, they do not lead me to reach a different overall conclusion with regard to any of the appeals.

Conditions

76. With regard to Appeals A, C, E, G and I the grant of prior approval for each of the payphone kiosks is subject to the standard conditions set out in the GPDO, including an implementation timescale, removal of the structure/apparatus when it is no longer required for electronic telecommunications purposes and accordance with the details submitted with the application.

77. The Council suggests an additional condition to require removal of 51 redundant existing kiosks across the Borough as a whole. The appeals considered here involve specific proposals for four replacement and one new kiosk and related advertisements. As such, it would be neither reasonable nor necessary to impose the suggested condition, which addresses a matter that does not have a direct bearing on the siting, appearance and effects of the proposals before me and which, therefore, is outside the scope of the current appeals.

78. For the advertisement proposals, each consent should be subject to the five standard conditions included in the 2007 Regulations. The Council proposes a number of additional conditions. The first concerns retention of the advertisement only while the related kiosk is in situ. Given that the advertisement screen is an integral part of the kiosk and this is reflected in the consent that has been granted, I consider that this condition is unnecessary. The other conditions concern the maximum luminance of the illuminated advertisement, limitations on display of anything other than static images and frequency of change of image; and the prevention of flashing error messages. I agree that these conditions are necessary in the interests of both highway safety and the character and appearance of the surrounding area in each case. Accordingly, I have imposed these four additional conditions.

Overall conclusions

79. For the reasons given above and having regard to all matters raised, I conclude that Appeals A, C, E, G and I should be allowed and prior approval granted; and Appeals B, D, F, H and J should be allowed and express consent granted.

J Bell-Williamson

INSPECTOR

Annex A

Schedule – additional conditions

- 1) The advertisement displays shall be static and shall not display moving images.
- 2) The advertisement displays shall change no more frequently than once every ten seconds and shall not include any animation or exposed cathode tubing. No visual effects of any kind shall accompany the transition between any two successive displays.
- 3) The maximum luminance for the advertisement shall not exceed 280cd/m² during the hours of darkness.
- 4) In the event of breakdown, the screen will automatically power-off to prevent flashing error messages being shown.