



Appeal Decision

Site visits made on 14 June 2019

by Nigel McGurk BSc(Hons) MCD MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2019

Appeal A Ref: APP/N4720/W/17/3192037

Public highway, O/S Unit 4, Broad Gate, The Headrow, near junction with New Briggate, Leeds, LS1 6PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/03157/DTM, dated 11 May 2017, was refused by notice dated 29 June 2017.
 - The development proposed is installation of a telephone kiosk.
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Appeal B Ref: APP/N4720/W/17/3192060

Public highway, O/S Barburrito, 62 The Headrow, Leeds, LS1 8TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/03162/DTM, dated 11 May 2017, was refused by notice dated 5 July 2017.
 - The development proposed is installation of a telephone kiosk.
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Appeal C Ref: APP/N4720/W/17/3192053

Public highway, O/S 44-48 The Light, The Headrow, Leeds, LS1 8TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/03214/DTM, dated 11 May 2017, was refused by notice dated 3 July 2017.
 - The development proposed is installation of a telephone kiosk.
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Appeal D Ref: APP/N4720/W/17/3192049

Public highway, Vicar Lane, Adjacent O/S 16-17 Grand Arcade, Leeds, LS1 6PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/03166/DTM, dated 11 May 2017, was refused by notice dated 30 June 2017.
 - The development proposed is installation of a telephone kiosk.
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Appeal E Ref: APP/N4720/W/17/3192048

Public highway, O/S 64 Boar Lane, Near Junction with Bank Street, Leeds, LS1 6HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/03159/DTM, dated 11 May 2017, was refused by notice dated 30 June 2017.
 - The development proposed is installation of a telephone kiosk.
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Appeal F Ref: APP/N4720/W/17/3192046

Public highway, Dortmund Square, Adjacent 22-26 The Headrow, Leeds, LS1 8EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/03165/DTM, dated 11 May 2017, was refused by notice dated 29 June 2017.
 - The development proposed is installation of a telephone kiosk.
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Appeal G Ref: APP/N4720/W/17/3192044

Public highway, O/S Unit 3, Broad Gate, 22-26 The Headrow, Leeds, LS1 8EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/03164/DTM, dated 11 May 2017, was refused by notice dated 29 June 2017.
 - The development proposed is installation of a telephone kiosk.
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Appeal H Ref: APP/N4720/W/17/3192041

Public highway, Adjacent 20 The Headrow, Leeds LS1 6PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/03163/DTM, dated 11 May 2017, was refused by notice dated 29 June 2017.
 - The development proposed is installation of a telephone kiosk.
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Appeal I Ref: APP/N4720/W/17/3192040
Public Highway, O/S Marks and Spencer Ltd, 47-49 Briggate, Leeds, LS1 6HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/03161/DTM, dated 11 May 2017, was refused by notice dated 29 June 2017.
 - The development proposed is installation of a telephone kiosk.
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Appeal J Ref: APP/N4720/W/17/3192039
O/S McDonalds, 33-35 Briggate, Leeds, LS1 6BR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Maximus Networks Ltd against the decision of Leeds City Council.
 - The application Ref 17/03160/DTM, dated 11 May 2017, was refused by notice dated 29 June 2017.
 - The development proposed is installation of a telephone kiosk.
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Decisions:

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Appeal C

3. The appeal is dismissed.

Appeal D

4. The appeal is dismissed.

Appeal E

5. The appeal is dismissed.

Appeal F

6. The appeal is dismissed.

Appeal G

7. The appeal is dismissed.

Appeal H

8. The appeal is dismissed.

Appeal I

9. The appeal is dismissed.

Appeal J

10. The appeal is dismissed.

Procedural Matters

11. The application forms relating to appeals A-J all state, in the box for the specification of apparatus to be installed or altered, "CALL BOX." In each of the descriptions of development, I have taken the description of development from that provided on the decision notices relating to appeals A-J. I note that the appellant refers to telephone kiosks in the supporting documentation provided. Taking all of this into account, I refer to telephone kiosks in the consideration of each appeal below.
12. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed telephone kiosk (also known as a public call box or telephone box) under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (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 telephone kiosk, the subject of each of the Appeals A – J.
13. 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.
14. The National Planning Policy Framework (2018, as amended) (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, considerations such as need for the payphone kiosk are not a relevant matter.
15. I note that the Council considers that all of the Appeals, with the exception of Appeals D and J, relate to sites that are located within the setting of the Central Conservation Area and within the setting of Listed Buildings. The Council considers that Appeal D relates to a site within the setting of a Listed Building. The site relating to Appeal J is located within the Central Conservation Area and the Council considers that it is located within the setting of a Listed Building.
16. According to statute, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of these areas. National planning policy, as set out in the Framework, states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation and that significance can be harmed or lost through development within their setting.

17. The Council has made reference in its decision notices to Policies T2, P10 and P11 of the Core Strategy¹ and to Policy GP5 of the Leeds Unitary Development Plan Review 2006. However, the principle of development is established by the GPDO and prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO includes no requirement that regard be had to the development plan.
18. 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. Nonetheless, I take account of the above-mentioned policies in so far as they are relevant to matters of siting and appearance.
19. The determination of each of these appeals was delayed following a High Court judgement – the decision of Ouseley J in Westminster CC v. SSHCLG & New World Payphones Ltd (2019) EWHC 176 (Admin) (the “New World case”). The decision in this case concluded that the relevant telephone kiosk was for the dual purpose of advertisement display and telecommunications use (and contained features which were for advertising and “not there at all for the telecommunications function.”)
20. In respect of the cases before me, I find that the available evidence, including drawings and technical details, does not clearly show that the proposed kiosks are intended to support advertising (bearing in mind that deemed consent allows a non-illuminated advertisement on the “glazed surface” of one face of the kiosk). Given this, it appears to me that these appeals should not be considered to constitute a dual purpose and therefore the prior approval considerations of siting and appearance must be considered.

Main Issues

21. In its reasons for refusal, the Council considers that each of the proposals subject to each Appeal would be harmful to visual amenity. In addition, with the exception of Appeal D, it considers that each of the proposals subject to each appeal would be harmful to highway and/or pedestrian safety.
22. Taking this and all of the above into account, I consider that the main issues for each of the Appeals, with the exception of Appeals D and J, are 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 and appearance of the setting of heritage assets, and its effect upon highway and/or pedestrian safety.
23. I consider that the main issue for Appeal D is 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 setting of a Listed Building. I consider that the main issue for Appeal J is 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 Central Conservation Area and on the setting of a Listed Building.

¹ Ref: Leeds Core Strategy (2014).

Reasons

Background

24. The appeals relate to proposals for the siting of ten telephone kiosks in Leeds city centre. The design of each of the kiosks proposed is the same, comprising a steel-framed open kiosk, constructed with steel casings, clear polycarbonate and toughened glass and with a roof mounted solar panel.
25. The roof of each kiosk would cover an area of approximately 1.12m by 1.32m. Each kiosk would have side panels with a width of approximately 0.55m and would reach a height of approximately 2.6m.
26. In respect of Schedule 2, Part 16, Class A of the GPDO, and noting my comments above, I am satisfied that the kiosk and its constituent parts fall under paragraph A.5 and are reasonably required for the purposes of electronic telecommunications apparatus. The proposed freestanding payphone kiosks therefore fall within the permitted development right under Part 16, Class A. However, prior approval, under paragraph A.3 is required in terms of siting and appearance for each of the kiosks by paragraph A.2(3) of Part 16.

Appeal A

27. The appeal site is located within a busy part of the city centre, comprising an area of pavement along The Headrow close to its junction with New Briggate. It is in a commercial area of Leeds city centre, characterised by the presence of tall period properties and occasional modern properties, with retailers at ground floor level.
28. During my site visit, I observed that nearby street trees, within a carefully landscaped area set in the middle of The Headrow, draw the eye as an attractive feature, providing a visual link with other trees further along the street and softening the distinctly urban surroundings. The appeal site is located directly opposite and in close proximity to these trees, close to a pedestrian crossing.
29. I also noted during my site visit that there is various street furniture along The Headrow in this area, including telecommunications apparatus, street lamps, waste bins and bus stops. Whilst the existence of gaps between these features provides for some sense of spaciousness, I find that the addition of the kiosk proposed would serve to combine with them to create an undue sense of clutter.
30. The harm arising from the above would, I find, be exacerbated as a result of the proposed kiosk drawing the eye as a prominent feature, due to its size and distinctive modern appearance. As such, it would appear unduly prominent in its surroundings and this would detract from the positive contribution afforded by the presence of the street trees.
31. Further to the above, The Headrow is a busy thoroughfare, especially in this location, close to where it meets New Briggate. The proposed kiosk would be located in immediate proximity to a pedestrian crossing – between a bus stop and the crossing itself – and I consider that the addition of a kiosk in this location would serve to reduce overall visibility along the street and would, at

the same time, give rise to the risk of pedestrians stepping out into the road to avoid both it and one another at busy times. This would introduce a risk of harm to pedestrian safety in a sensitive location adjacent to a pedestrian crossing.

32. Taking the above into account, I find that the proposal would be detrimental to the character and appearance of the area and would thus be harmful to visual amenity. It would also be harmful to public safety. The dismissal of Appeal A is therefore justified.
33. Whilst the Council states, in its decision notice, that the proposal would harm a heritage asset, I note that, whilst within the general vicinity of Thornton's Buildings, a Grade II Listed Building, three storeys in height and notable for its attractive red brick, stone dressings and bays, the appeal site is located across The Headrow some distance away from the Listed Building and would only be seen in context with that building from oblique angles, and even these would be obscured by the presence of trees.

Appeal B

34. Appeal B relates to a site on the pavement along The Headrow, adjacent to the Grade II Listed Permanent House and Headrow Buildings, a Classical style Portland stone and red brick 4 storey 20th Century shop and office building. The appeal site also falls within the immediate setting of the Central Conservation Area, characterised by the presence of landmark commercial and public buildings. This particular part of The Headrow is notable for the presence of tall, attractive period properties along a street where clutter is kept to a minimum, thus contributing to a sense of spaciousness and providing for an appreciation of the impressive surrounding architecture.
35. During my site visit, I observed the appeal site to be located immediately alongside a taxi rank which effectively shares the surface of a widened area of pavement in this location. Street trees close to the appeal site soften the urban surroundings and make a positive contribution to the area, whilst low benches appear as modest, unobtrusive features.
36. By way of contrast, I find that the proposed kiosk, due to its height, width and distinctive glass and steel design, would draw attention to itself as an incongruous feature, unlike any other in this location. It would appear somewhat awkward and bulky relative to the natural form of the street trees and the modest scale of the benches. Consequently, the proposal would appear as a dominant feature and would detract from the character and appearance of the Central Conservation Area, as well as from the setting of the adjacent Listed Building.
37. In addition to the above, the kiosk would introduce a potential obstruction to clear views across the pavement within an area shared with taxis. This could result in a reduction in visibility along a busy street where taxis are effectively pulling onto a shared surface. As such, the proposal would run the risk of resulting in pedestrians stepping out into the path of taxis and this would be to the detriment of highway safety.

38. The proposed kiosk would harm the character and appearance of the setting of a Listed Building and of the Central Conservation Area, and would harm public safety. The harm arising would be localised and in respect of the significance of the heritage assets as a whole, would be less than substantial. Public benefits may arise from the proposal in terms of providing accessibility to a telephone kiosk for people with limited mobility, including wheelchair users. However, in this case, these do not amount to something that outweighs the harm to heritage assets identified.
39. Taking all of the above into account, the dismissal of Appeal B is justified.

Appeal C

40. The appeal site is located along an area of pavement on The Headrow close to its junction with Albion Street, within a busy part of Leeds city centre. The surrounding area is in commercial use, characterised by the presence of tall period properties and occasional modern properties, with retailers at ground floor level and offices above. The appeal site is also located in a busy area, in very close proximity to a pedestrian crossing adjacent to The Headrow's junction with Albion Street.
41. The site is adjacent to the Grade II Listed Permanent House and Headrow Buildings, a Classical style Portland stone and red brick 4 storey 20th Century shop and office building and is within the immediate setting of the Central Conservation Area, characterised by the presence of landmark commercial and public buildings.
42. During my site visit, I observed this particular part of The Headrow to be notable for the presence of tall, attractive period properties along a street where clutter appears minimal, resulting in generally open pavements that contribute to a sense of spaciousness and provide for an appreciation of the impressive surrounding architecture.
43. Also during my site visit, I noted the presence of an area of landscaping and street trees, set in the middle of The Headrow, immediately across a narrow area of highway adjacent to the appeal site. The landscaping and trees draw the eye as an attractive feature, providing a visual link with other trees further along the street and softening the urban character of the immediate area.
44. Whilst there is a small telecommunications box and a bus stop within the wider vicinity of the appeal site, these are set well apart from each other and maintain the generally spacious and relatively clutter-free appearance of The Headrow in this location.
45. I find that the proposed kiosk would serve to close the gap between the telecommunications box and the bus stop and would effectively serve to visually draw these features together. I consider that this would detract from the area's sense of spaciousness and serve to create a sense of clutter where none currently exists.
46. The harm arising from this would be exacerbated as a result of the kiosk, due to its size, form and distinctive appearance, unlike any other feature in this location, serving to draw attention to itself as a prominent and incongruous

feature. It would appear awkward and out of place, to the harm of the setting of the adjacent Listed Building and the setting of the Central Conservation Area.

47. As above, the Headrow is a busy thoroughfare, especially in this location, close to its junction with Albion Street. The proposed kiosk would be located in immediate proximity to a pedestrian crossing – between a bus stop and the crossing itself and I find that the addition of a kiosk in this location would serve to obscure views along the street, giving rise to the risk of pedestrians stepping out into the road to avoid the kiosk and/or one another at busy times. This would introduce a risk of harm to pedestrian safety in a sensitive location adjacent to a pedestrian crossing.
48. Taking the above into account, I find that the proposal would be detrimental to the character and appearance of heritage assets and would thus be harmful to visual amenity. It would also be harmful to public safety. The dismissal of Appeal C is therefore justified.
49. The proposed kiosk would harm the character and appearance of the setting of a Listed Building and of the Central Conservation Area, and would harm public safety. The harm arising would be localised and in respect of the significance of the heritage assets as a whole, would be less than substantial. Public benefits may arise from the proposal in terms of providing accessibility to a telephone kiosk for people with limited mobility, including wheelchair users. However, in this case, these do not amount to something that outweighs the harm to heritage assets identified.

Appeal D

50. Appeal D relates to a site on the pavement along Vicar Lane, immediately outside the Grade II Listed Grand Arcade, a Renaissance style shopping arcade with Art Nouveau decorative details, side gables and significant giant order entrances with “THE GRAND ARCADE” superscribed below four oculi (circular windows).
51. During my site visit, I observed the pavement outside the Grand Arcade, including the site area, to be wide and spacious. This sense of spaciousness derives in part from the width of the pavement and in part, from the absence of large, tall or significant items of street furniture – with just a waste bin, a parking meter, railings and a small street sign being located in the area around the appeal site.
52. As a consequence of the above, the intricate and ornate façade of the Grand Arcade faces out onto Vicar Lane with a largely uncluttered and spacious pavement directly in front of it. This provides for a spacious setting and also for clear views of the Listed Building, the attractive appearance of which makes a significant positive contribution to the character and appearance of the area.
53. During my site visit, I observed the appeal site to be located such that the proposed kiosk would be sited directly in front of one of the giant order entrances to the Grand Arcade. As a consequence, I find that eyes would be drawn away from the Listed Building and towards the proposed kiosk, which would appear as an incongruous feature – its modern glass and steel

appearance contrasting with and appearing out of keeping with, the Renaissance and Art Nouveau styling of the Grand Arcade.

54. Further to the above, the proposed kiosk would appear as a relatively tall, wide and ungainly feature, entirely out of scale with the more modest street furniture within the area around the site. This would add to its incongruous appearance, leading it to appear unduly prominently as an alien feature.
55. In addition, I find that the proposal would, by filling a gap between the existing waste bin and parking meter, combine with these features to result in a sense of clutter immediately in front of the Grand Arcade.
56. As a consequence, taking all of the above into account, the proposal would detract significantly from the setting of the adjacent Listed Building, to the harm of visual amenity. The harm arising would be localised 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 accessibility to a telephone kiosk for people with limited mobility, including wheelchair users. However, in this case, these do not amount to something that outweighs the harm to heritage asset identified.
57. Taking the above into account, the dismissal of Appeal D is justified.

Appeal E

58. Appeal E relates to a site on the pavement alongside Boar Lane, close to its junction with Bank Street. The site is located along the same pavement as, just a few metres away from, and within the setting of, the Grade I Listed Holy Trinity Church, a fine example of an early 18th Century ashlar church with a later upper tower.
59. During my site visit, I observed the area around the appeal site, including that between the appeal site and the Grade I Listed Building, to be open, spacious and clutter free. This provides for clear and open views to the important Grade I Listed Building and also, I noted, contributes to a highly attractive, clutter-free area of streetscape within this busy part of Leeds city centre.
60. The proposed kiosk would introduce a significant built form that would appear out of place in its surroundings. It would, as a result of its proposed siting, scale and appearance, draw attention to itself as an alien feature and would detract severely from the open and spacious qualities that contribute to the setting of the nearby Grade I Listed Building.
61. Whilst the generous width and clutter-free nature of the pavement in this location means that the proposal would have little, if any impact on highway safety, the harm identified above, in respect of visual amenity, justifies dismissal of Appeal E.
62. The harm arising would be localised 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 accessibility to a telephone kiosk for people with limited mobility, including wheelchair users. However, in this case, these do not amount to something that outweighs the significant harm to heritage asset identified.

Appeal F

63. The appeal site relating to Appeal F is located within Dortmund Square, a pedestrianised area of the city centre, located off The Headrow.
64. During my site visit, I observed Dortmund Square to comprise a busy thoroughfare, surrounded by shops, within which the presence of a large street tree, with a bench around is complemented by public art and attractive low level benches. Together with attractive surfacing, these features combine with the generous width of the square to provide for an attractive and spacious city centre environment.
65. I also noted during my site visit that the presence of kiosks, adverts and several waste bins results in Dortmund Square appearing somewhat cluttered in places, especially from occasional long views from The Headrow.
66. The proposed kiosk is relatively tall and wide and would, as a result of its distinctive modern styling, draw attention to itself. In so doing, it would also be seen in combination with the existing features noted above, and I find that this would result in an unduly cluttered effect.
67. This would detract from Dortmund Square's spacious qualities and would take attention away from its attractive features, including the tree, benches and public art. This would be to the detriment of local character.
68. Whilst the width of the square means that there would be no discernible impact on public safety and the siting of the proposal would have little or no impact on the Central Conservation Area, which is located across The Headrow from the site, I find the harm identified in respect of visual amenity to be so significant as to justify the dismissal of Appeal F.

Appeal G

69. Appeal G relates to a site on the pavement alongside The Headrow in a busy part of Leeds city centre, close to the entrance to Dortmund Square, a pedestrianised area surrounded by shops. During my site visit, I observed the appeal site to be located within an attractive open and spacious area of pavement, characterised by the complete absence of street furniture.
70. These open and spacious qualities make a positive contribution to the uncluttered appearance of the area around the site and provide for an appreciation of a line of street trees further along The Headrow. These trees serve to naturally soften the urban landscape and complement the appearance of thigh quality street paving along this part of The Headrow, as well as complementing the tall buildings that rise above them.
71. The proposed kiosk would appear out of keeping with this particularly open, spacious and clutter-free area of the city centre. It would, as a result of its proposed siting, scale and appearance, draw attention to itself as a somewhat bulky and intrusive alien feature.
72. In addition to the above, I find that the proposal would, by drawing attention to itself as a prominent feature, detract from the currently attractive outlook

along The Headrow towards the line of street trees. Consequently, the proposal would harm public amenity.

73. Whilst the width and clutter-free nature of the pavement in this location means that the proposal would have little, if any impact on highway safety, the harm identified above, in respect of visual amenity, justifies dismissal of Appeal G. There are heritage assets in the general vicinity of the site, but these appear some distance away and there is no substantive evidence before me to demonstrate that the proposal would have a direct impact upon them. Notwithstanding this, I have found that the proposal would harm visual amenity and hence the decision set out in the conclusion below.

Appeal H

74. Appeal H relates to a site on the pavement alongside The Headrow, close to its junction with New Briggate and immediately outside the Grade II Odeon Cinema, a Classical style four storey steel framed building faced in red brick with Portland stone dressings.
75. During my site visit, I observed the appeal site to be located along an area of pavement notable for its attractive paving and minimal street furniture. Whilst there are a number of structures further along the street in this location, including an advertisement and a traditional telephone box, the area around the site appears generally spacious and is not unduly cluttered.
76. However, I find that the addition of the proposed kiosk would, by filling a gap with a tall structure and stretching across a substantial proportion of the width of the pavement, would combine with features in the wider vicinity to result in an unduly crowded and cluttered appearance. This would be to the detriment of The Headrow's spacious qualities, and would detract from the generally spacious setting of the adjacent Grade II Listed Building
77. Whilst I note that there is no substantive evidence to demonstrate that the proposal would harm highway safety, taking into account the generous width of the pavement and the presence of other features, the harm arising in respect of visual amenity justifies the dismissal of Appeal H.
78. The proposed kiosk would harm the character and appearance of the setting of the Odeon Cinema, a Listed Building. The harm arising would be localised 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 accessibility to a telephone kiosk for people with limited mobility, including wheelchair users. However, in this case, these do not amount to something that outweighs the harm to heritage asset identified.

Appeal I

79. The appeal site relating to Appeal I is located along Briggate, along a wide pedestrianised area forming one of Leeds city centre's main shopping streets.
80. Briggate's character in this area derives from the wide, open and spacious expanse of the pedestrianised street, which is attractively paved, to either side of which are tall buildings, mostly occupied by major retailers. As a consequence, the ground floor shop fronts, with their displays and

advertisements, appear prominently, whilst the street itself provides for a pleasantly open and spacious leisure environment.

81. During my site visit, I observed there to be minimal street furniture along this part of Briggate. Thin, carefully designed street lights – providing planters, a high level advertisement and lamps – are an attractive feature, taking up very little space at ground floor level. Single low level benches, with an adjacent low and narrow bollard, are set at regular intervals and these provide an attractive sense of rhythm, as well as places for shoppers to rest or observe their surroundings.
82. Other than low level waste-bins and a pair of low-level cycle racks, these are the only permanent features along the otherwise clutter-free pavement around the appeal site.
83. Taking the above into account, the proposed telephone kiosk would, due to its height, width and distinctive glass and steel materials, draw attention to itself as a large, prominent and highly incongruous feature, out of keeping with any other feature along this part of Briggate.
84. In drawing attention to itself as an alien feature, the proposal would detract from Briggate's attractive open and spacious character. The harm arising from this would be exacerbated as a result of the proposed kiosk failing to respect the regular rhythm afforded by the spacing of benches and single bollards.
85. Taking the above into account, I find that the proposed development would fail to respect the character of the area and would result in harm to visual amenity.
86. Whilst there are heritage assets located within the wider vicinity of the appeal site, I consider that the proposal would not be seen in the same context as these, due to distance and the angles between the appeal site and the heritage assets and there is no substantive evidence before me to the contrary.
87. Also, whilst the Council considers that the proposal would harm public safety, the proposed kiosk would be located within a very wide, open and spacious pedestrianised area, large enough to cope with significant numbers of pedestrians and there is no substantive evidence to support the contention that the proposal would be detrimental to the free-flow of pedestrians or service vehicles to the extent that there would be harm to public safety.
88. Notwithstanding the above, I have found that the proposal would harm visual amenity and this justifies the dismissal of Appeal I.

Appeal J

89. The appeal site relating to Appeal J is located along Briggate, in a very busy location, close to Briggate's junction with Duncan Street, in a part of Leeds city centre characterised by the presence of shops, restaurants and offices, many occupying highly attractive period properties.
90. The appeal site is located in the Central Conservation Area, which in this area is characterised by the presence of tall commercial buildings, with ornate facades, built to the pavement edge along wide streets. As a consequence, the area surrounding this part of Briggate has a distinct sense of historical grandeur.

One of these notable buildings, located opposite the appeal site, is the Yorkshire Bank, a Grade II Listed four storey, terracotta building in Baroque Revival style.

91. During my site visit, I observed the appeal site to be located just past the busy entrance to Briggate from Duncan Street. Close to Duncan Street, there are a couple of tall structures, including a kiosk containing a cash machine, a street map and an advertisement. Together with a pedestrian crossing, railings, waste bins, cycle racks, bollards and street lights, these features afford this lower area of Briggate a somewhat cluttered appearance and this detracts from the setting of the Yorkshire Bank, as well as from the grandeur of the Conservation Area.
92. However, as one moves along Briggate on the same side of the street as the appeal site, away from Duncan Street, street furniture tends to appear more modest, being low in height and appears regularly spaced and more similar in form. Consequently, Briggate appears less cluttered as one travels away from Duncan Street and this also provides for clearer views along Briggate, towards the upper floors of the Yorkshire Bank and buildings within the Conservation Area.
93. The proposed kiosk would be located between a low level waste bin and bollard and the kiosk with a cash machine. As such, it would introduce an additional tall and relatively wide feature within the already cluttered lower area of Briggate.
94. The proposed siting of the kiosk would, to some extent, in combination with existing street furniture, serve to create a "wall" of street furniture, with only small gaps in between. As a consequence, the proposal would effectively serve to extend the cluttered lower area of Briggate further away from Duncan Street towards the less cluttered area of Briggate.
95. In addition to the above, I consider that the distinctive glass and steel design of the kiosk would, in combination with its height and width, serve to draw the eye. This would result in the proposed kiosk appearing as a dominant feature, detracting from and to the detriment of, long views along Briggate towards the Yorkshire Bank and buildings within the Conservation Area.
96. I note above that this part of Briggate is a busy thoroughfare. There is a pedestrian crossing very close to the appeal site and I find that the "walling" effect that would arise from locating the proposed kiosk in between existing street furniture would also serve to effectively channel pedestrians into a narrow part of Briggate. At particularly busy times, this may lead pedestrians to seek to avoid the "channel" and step out into the area around the pedestrian crossing, thus creating potential conflict with service vehicles.
97. Taking all of the above into account, I find that the proposal would harm the character and appearance of the area and would fail to conserve the character and appearance of heritage assets. The harm arising would be localised and in respect of the significance of the heritage assets as a whole, would be less than substantial. Public benefits may arise from the proposal in terms of providing accessibility to a telephone kiosk for people with limited mobility, including

wheelchair users. However, in this case, these do not amount to something that outweighs the harm to heritage assets identified.

98. In addition to the above, I find that the proposal would introduce an obstacle along a busy pavement, next to a pedestrian crossing and would, as a consequence, introduce the risk of harm to pedestrian safety. Consequently, the kiosk would harm the character and appearance of the area, fail to conserve heritage assets and harm public safety. The dismissal of Appeal J is therefore justified.

Conclusion

99. I conclude that, for the reasons given above and having regard to all matters raised, Appeals A, B, C, D, E, F, G, H, I and J should fail.

N McGurk

INSPECTOR