



Appeal Decisions

Site visit made on 9 July 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2019

All Appeals

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeals are made by Maximus Networks Ltd against the decisions of The Council of The Royal Borough of Kensington & Chelsea.
- The development proposed in each case is described as a call box.

Appeal A - Ref: APP/K5600/W/18/3211942

171-175 Brompton Road, London SW3 1NF

- The application Ref PA/18/00457, dated 22 January 2018, was refused by notice dated 22 March 2018.

Appeal B - Ref: APP/K5600/W/18/3212076

Adj. 6 Fulham Road, London SW3 2NW

- The application Ref PA/18/00550, dated 22 January 2018, was refused by notice dated 29 March 2018.

Appeal C - Ref: APP/K5600/W/18/3212003

101 Fulham Road, London SW3 6RH

- The application Ref PA/18/00496, dated 22 January 2018, was refused by notice dated 29 March 2018.

Appeal D - Ref: APP/K5600/W/18/3211974

61-63 Sloane Avenue, London SW3 3DH

- The application Ref PA/18/00458, dated 22 January 2018, was refused by notice dated 22 March 2018.

Appeal E - Ref: APP/K5600/W/18/3212066

80 King's Road, London SW3 4TZ

- The application Ref PA/18/00494, dated 22 January 2018, was refused by notice dated 29 March 2018.

Appeal F - Ref: APP/K5600/W/18/3212006

104 King's Road, London SW3 4TZ

- The application Ref PA/18/00492, dated 22 January 2018, was refused by notice dated 29 March 2018.

Appeal G - Ref: APP/K5600/W/18/3211976

95 King's Road, London SW3 4NX

- The application Ref PA/18/00477, dated 22 January 2018, was refused by notice dated 22 March 2018.

Appeal H - Ref: APP/K5600/W/18/3211988
150 King's Road, London SW3 3NR

- The application Ref PA/18/00443, dated 22 January 2018, was refused by notice dated 26 March 2018.

Appeal I - Ref: APP/K5600/W/18/3212020
196 King's Road, London SW3 5XP

- The application Ref PA/18/00485, dated 22 January 2018, was refused by notice dated 29 March 2018.

Appeal J - Ref: APP/K5600/W/18/3211968
234 King's Road, London SW3 5UA

- The application Ref PA/18/00488, dated 22 January 2018, was refused by notice dated 22 March 2018.

Appeal K - Ref: APP/K5600/W/18/3211965
183b King's Road, London SW3 5EB

- The application Ref PA/18/00482, dated 18 January 2018, was refused by notice dated 22 March 2018.

Appeal L - Ref: APP/K5600/W/18/3211971
278 King's Road, London SW3 5AW

- The application Ref PA/18/00480, dated 22 January 2018, was refused by notice dated 22 March 2018.

Appeal M - Ref: APP/K5600/W/18/3212069
359 King's Road, London SW3 5ES

- The application Ref PA/18/00546, dated 22 January 2018, was refused by notice dated 29 March 2018.

Decision

1. All the appeals A-M inclusive are dismissed.

Procedural Matters

2. This decision relates to 13 appeals. The appeals are so closely related that, to avoid duplication, I have dealt with them together in one decision.
3. The Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 came into force on 25 May 2019. Amongst other aspects, it amended Class A of Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), removing permitted development rights for the installation of telephone kiosks. However, this was subject to transitional and saving provisions, including that where a prior approval event occurs, the planning permission granted by Class A of Part 16 of Schedule 2 to the GPDO continues to have effect in relation to a public call box as if the amendments made to that Order by Part 2 of the above Regulations had not been made. A prior approval event includes, amongst other aspects, the giving of prior approval on or after 25 May 2019 in relation to an appeal which was lodged under section 78 of the Town and Country Planning Act 1990 within 6 months of the date of notice of refusal of a prior approval application submitted before 25 May 2019. I have therefore determined the appeals on this basis.

4. Although parties have queried the need for the call boxes (also known to as kiosks), the principle of development is established by the GPDO. The National Planning Policy Framework (the Framework) also confirms that considerations such as need for telecommunications systems, which include telephone kiosks, should not be questioned. I have dealt with the appeals on this basis.
5. My attention has been drawn to the High Court judgement *Westminster CC v SSHCLG & New World Payphones Ltd* [2019] EWHC 176 (Admin). The appellant does not rule out non-illuminated advertising on one glazed surface of the kiosks in future. However, no adverts are shown on the plans, advertising consent is not being sought as part of the appeals, and the evidence before me indicates that the kiosks' rear opening element is required for installation, servicing and maintenance rather than for advertising purposes. Furthermore, there is a separate statutory regime relating to the display of advertisements and the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 also recently removed deemed consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 to display an advertisement on the glazed surface of a telephone kiosk.
6. From the evidence before me, I am satisfied that the kiosks the subject of this decision are solely for the purposes of the operator's electronic communications network and cannot be reasonably described as having a dual purpose. Consequently, I have considered the appeal proposals against the provisions in Schedule 2, Part 16, Class A of the GPDO.
7. The above GPDO provisions 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. My determination of the cases has been made on this basis.
8. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require regard to be had to the development plan. However, the Council refers to development plan policies in its reasons for refusal and I have had regard to those policies and the Framework but only in so far as where they are a material consideration relevant to the matters of siting and appearance for each appeal proposal. Where relevant, I have also had regard the Council's Supplementary Planning Document 'Transport and Streets' (2016) and, as referenced by the appellant, Transport for London's (TfL) 'Pedestrian Comfort Guidance for London' (first edition, 2010) and 'Streetscape Guidance' (2017).
9. The Framework was revised in February 2019. However, as the Framework's policies that are most relevant to these appeals have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.
10. The general duty as respect to listed buildings under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply to prior approval applications relating to permitted development because they are not applications for planning permission. However, development plan policies and the provisions in the Framework covering the historic environment are material considerations in relation to harm to a listed building or its setting, as well as to the character or appearance of a conservation area (CA) where the site is within it. The statutory requirements of Section 72(1) of the above Act also apply, requiring special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. I have dealt with the appeals on this basis.

11. The provisions of the GPDO require the proposed development to be assessed solely on the basis of its siting and appearance. Therefore, whilst the appellant has referred to the purported benefits of the proposed kiosk, I have not taken these matters into account other than in respect of heritage assets where the Framework advises at paragraph 196, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal".

Main Issues

12. The main issues are:

- In all cases, the effect of the siting and appearance of each kiosk on the character and appearance of the area; and
- In the case of appeals A, C, E, F, G, H, I, J, K and M, the effect of the siting and appearance of each kiosk on the safe and efficient operation of the highway.

Reasons

Proposed telephone kiosks

13. The kiosks would measure approximately 1.125 metres deep, 1.325 metres wide and 2.6 metres high. With a steel frame, they would consist of a three-sided structure which would be open at the front, contain two shorter clear-glazed side panels and an openable toughened-glass rear panel. The overhanging roof would include a photovoltaic (PV) panel, which would generate power for each kiosk.
14. Although I do not find the kiosks would be particularly innovative, their form, design and appearance would be neutral, light, simple and functional without any proposed colouring, lettering or illumination. I note that the appellant intends to provide a new network of telephone kiosks which would also have a uniformity of design. No indication has been provided as to the orientation of each of the kiosks. I have therefore determined the appeals with reference to the submitted plans and red square footprint on the appellant's photographs.
15. The kiosks would provide public benefits in terms of providing accessible electronic communication facilities for the community, allowing free calls to various services and to Childline, and addressing network coverage issues.

Appeal A - 171-175 Brompton Road

16. Within a busy commercial environment, the site is next to a relatively modern building within an area containing a mix of modern and more traditional built-form with numerous ground-floor commercial uses. Outside of the Brompton CA, the site is in a prominent location and is visible from nearby junctions and along Brompton Road. To the south-west and in close proximity to the proposed kiosk, the footway narrows and contains what appears to be two recently installed cycle racks, a lighting column and two cabinets, and a signal controlled junction and pedestrian crossing beyond. This creates a rather busy streetscene and a relatively narrow environment along that section of footway. However, the site and footway leading north-east involve a more open and spacious environment, with limited street furniture until beyond the junction.
17. The development would introduce a relatively tall and bulky structure with a significantly greater footprint than nearby street furniture. Prominent in various views in the locality, the kiosk would exacerbate the visually congested nature of

the footway to the south-west and erode the open environment of the site and footway to the north-east.

18. Brompton Road is a busy highway and I observed on my site visit involves significant vehicular and pedestrian movements. The appellant's pedestrian survey indicates that the site experiences high levels of pedestrian flows and that the footway should be 5.3 metres wide to comply with TfL guidance. The development would reduce the width of unobstructed footway between the kiosk and building frontage to approximately 1.6 metres. I recognise that this would only be for a short distance and that TfL guidance sets out that footways can be reduced to an absolute minimum unobstructed width of 1 metre. However, it seems to me that the kiosk would significantly hinder the free movement of pedestrians in what is a busy and already relatively constrained pedestrian environment. The above guidance also indicates the need for a frontage zone or buffer between the building edge and footway zone, that the clear zone width should relate to the character and use of the street and the volume of pedestrians, and that telephone boxes should not be installed where footway unobstructed widths would be reduced to below 2 metres. The unobstructed footway width would also be significantly below the Council's footway guidance width for this area.
19. For the reasons above, the siting and appearance of the kiosk would harm the character and appearance of the area and be detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal A.

Appeal B - Adj. 6 Fulham Road

20. The appeal site is in a prominent location near to several road junctions. The proposed kiosk would be next to a well-proportioned building with commercial use on the ground floor. The surrounding area includes several grand buildings, such as Michelin House opposite, and a mix of relatively tall modern and more traditional buildings, several of which have elegant facades facing the public realm and involve commercial uses. The site lies outside of the adjoining Thurloe/Smith's Charity CA. The kiosk would be next to two cabinets and a lighting column, and in close proximity to steps with handrails projecting from the building frontage of No 6 Fulham Road and a signal controlled junction and pedestrian crossing. However, the streetscene in the vicinity of the site has a spacious character and uncluttered nature given the spacing between the above features and their relatively limited size and slender nature.
21. With a significantly greater width and depth than the nearby footway features, the kiosk would be experienced as a comparatively bulky structure. It would be visually prominent in the surrounding area and would reduce the spacious nature of the footway and surrounding streetscene. It would therefore be experienced as a dominant, incongruous feature. Given its position, it would also detract from the well-proportioned features of the adjacent building. Consequently, the siting and appearance of the kiosk would harm the character and appearance of the area. This harm justifies the refusal of prior approval and the dismissal of appeal B.

Appeal C - 101 Fulham Road

22. The appeal site is next to a relatively tall, modern building and within an area characterised by a mix of modern and more traditional built-form. There are several commercial units at ground floor level on the same side of the road as the site. The surrounding area includes several grand buildings, such as Michelin House. The boundary of the Thurloe/Smith's Charity CA and a terraced group of Grade II* Listed Buildings on Pelham Crescent are nearby, on the opposite side of

Fulham Road. Given its situation near to three road junctions, the site is in a relatively prominent position. The kiosk would be situated between two existing telephone kiosks, one of which appears to be relatively recent addition. With the exception of light columns either side of those kiosks, the footway is relatively open and spacious, with limited other street furniture on this stretch of footway.

23. The proposed kiosk would be separated from the group of listed buildings by Fulham Road, which I observed on my site visit is relatively busy and is wide enough for passing traffic and on-street parking on both sides. This spacing, the kiosks' simple form and the presence of other street furniture, including the existing kiosks, indicates that the development would not harm the setting of the listed building.
24. However, the development would have a greater footprint and would be experienced as a bulkier feature than the two existing kiosks, which are themselves prominent features within the pavement streetscene. The position of the proposed kiosk would also create a row of relatively tall items of street furniture. This would result in a visually congested environment and the kiosk would appear as an incongruous feature that would erode the spacious nature of the streetscene in this locality.
25. The development would reduce the width of unobstructed footway between the kiosk and building frontage to approximately 2.9 metres. I recognise that the Council's guidance sets out that the footway width for this area should be 4 metres. However, the appellant's pedestrian survey indicates that the site experiences low levels of pedestrian flows and that the footway should therefore be 2.9 metres wide to comply with TfL guidance. The proposed kiosk would also not project much further into the footway than the two existing kiosks. Consequently, it seems to me that there would remain a sufficiently wide unobstructed footway between the development and the building edge for pedestrian movement to not be significantly hindered.
26. For the reasons above, the safe and efficient operation of the highway would not be harmed but the siting and appearance of the kiosk would harm the character and appearance of the area. This harm justifies the refusal of prior approval and the dismissal of appeal C.

Appeal D - 61-63 Sloane Avenue

27. The appeal site is next to and opposite large, well-proportioned, grand terraced buildings with ground-floor commercial uses. There is on-street parking running along the highway in front of the site. However, due to its position broadly in the middle of the terrace, the width of the tree-lined highway, and the set-back section of the building opposite, the site is in a relatively open, spacious location. The kiosk would be situated between a tree and a lighting column and there is a telephone kiosk and another tree nearby. Along the footway in both directions, there are a number of other street furniture, including some relatively small and slender features, such as posts, a parking ticket machine, lighting columns and cycle racks, and towards the south-east end of the terrace there is another telephone kiosk near to a zebra crossing.
28. The proposed kiosk would have a greater footprint than much of the surrounding street furniture and would be read as a relatively bulky and prominent feature within the pavement streetscene. Given its position between various items of street furniture, it would also create an increasingly visually congested environment and erode the spacious nature of the surrounding area. Consequently, the siting and

appearance of the kiosk would harm the character and appearance of the area. This harm justifies the refusal of prior approval and the dismissal of appeal D.

Appeal E - 80 King's Road

29. The proposed kiosk would be next to a well-proportioned terraced building which runs between Anderson Street and Lincoln Street and contains ground floors in commercial use. The surrounding area includes built-form of a similar appearance with elegant facades. Near to two road junctions and with various on-street parking restrictions, the site is in a relatively prominent location and is visible from various points along the highway and from the Duke of York square to the east. It is within the Chelsea CA and opposite but outside the boundary of the Royal Hospital CA. The kiosk would be located between an existing telephone kiosk and a bus stop shelter. With street furniture on either side being limited to slender posts and light columns, these two accoutrements are relatively conspicuous within the surrounding pavement streetscene, which has a relatively open character and uncluttered appearance. The site contributes to this by providing visual space between the existing kiosk and bus shelter.
30. The proposed kiosk would not appear significantly larger than the existing kiosk and bus shelter. However, it would have a greater footprint than the adjoining kiosk, create a row of comparatively large street furniture and begin to coalesce with them. This would result in a visually congested environment in a relatively short stretch of pavement. The development would therefore appear as an incongruous feature which would erode the open and uncluttered nature of the site and surrounding area.
31. Although reasonably localised in its extent, the development's harm to the character and appearance of the surrounding area would, given the site's location within the Chelsea CA, neither preserve nor enhance the character or appearance of the CA. In accordance with paragraph 196 of the Framework, I find this harm to be less than substantial. In such circumstances, the less than substantial harm should be weighed against the public benefits. However, the extent of the benefits, set out above, would be modest based on the development and its use, and therefore do not outweigh the great weight given to the conservation of the designated heritage asset.
32. The development would reduce the width of unobstructed footway between the kiosk and building frontage to approximately 2.4 metres. The Council's guidance sets out that the footway width for this area should be 4 metres. The appellant's pedestrian survey also indicates that the site experiences high levels of pedestrian flows and that the footway should be wider than it currently is in order to comply with TfL guidance.
33. However, the proposed kiosk would not project much further into the footway than the nearby kiosk and bus shelter, and pedestrians already navigate narrowed footway sections in this area. There would also be an area of wider, unobstructed footway between the proposed kiosk and the bus shelter. Consequently, it seems to me that there would remain sufficient unobstructed footway between and around the development and building edge for pedestrian movement to not be significantly hindered. Positioned approximately 0.4 metres from the kerb edge, the proposed kiosk would also be sufficiently set back from the carriageway to avoid significantly affecting the safety of carriageway users, including cyclists.
34. For the reasons above, the safe and efficient operation of the highway would not be harmed but the siting and appearance of the kiosk would harm the character

and appearance of the area and Chelsea CA. This harm justifies the refusal of prior approval and the dismissal of appeal E.

Appeal F - 104 King's Road

35. The appeal site is at the other end of the terraced building which Appeal E is next to. The surrounding area includes ground-floor commercial uses and built-form involving some relatively modern buildings and several more-traditional buildings with elegant facades. Situated near to two road junctions and restricted on-street parking, the appeal site is in a prominent position and is visible from various points in the public realm. The site lies within the Chelsea CA. The kiosk would be located between two pairs of cycle racks. With street furniture on either side being limited to slender items such as pedestrian crossing and light columns, the site and surrounding streetscene form a spacious and open section of King's Road.
36. Visually prominent, the kiosk would have a significantly greater footprint than surrounding street furniture. Consequently, it would appear as a bulky, dominant feature and an incongruous addition that would erode the locality's open and spacious nature.
37. Although reasonably localised in its extent, the development's harm to the character and appearance of the surrounding area would, given the site's location within the Chelsea CA, neither preserve nor enhance the character or appearance of the CA. I find this harm to be less than substantial, and in such circumstances, this should be weighed against the public benefits. However, the extent of the benefits, set out above, would be modest based on the development and its use, and therefore do not outweigh the great weight given to the conservation of the designated heritage asset.
38. The kiosk would project further into the footway than the nearby cycle racks and reduce the width of unobstructed footway to approximately 2.4 metres. I recognise that the Council's guidance sets out that the footway width for this area should be 4 metres, and I note the appellant's pedestrian survey shows the site experiences high levels of pedestrian flows and that the footway should be wider than it currently is in order to comply with TfL guidance. However, I observed on my site visit that the kiosk would not project significantly more into the footway compared to when the cycle racks are in use. The reduction in unobstructed footway due to the kiosk would therefore not be significant. The site's proximity to the junction with Anderson Street and the set-back zebra crossing there also means that the pedestrian desire line is likely to be closer to the building frontage on this part of the pavement. Consequently, it seems to me that the kiosk would not significantly hinder pedestrian movement. Positioned approximately 0.4 metres from the kerb edge, it would also be sufficiently set back to avoid significantly affecting the safety of carriageway users, including cyclists.
39. For the reasons above, the safe and efficient operation of the highway would not be harmed but the siting and appearance of the kiosk would harm the character and appearance of the area and Chelsea CA. This harm justifies the refusal of prior approval and the dismissal of appeal F.

Appeal G - 95 King's Road

40. The site is next to a relatively modern building in commercial use on the ground floor and which reflects the character and appearance of built-form in the vicinity. The site lies outside of the nearby Chelsea and Royal Hospital CAs. Given its situation near to two junctions and the openness of the surrounding highway, the site is in a relatively prominent position. The kiosk would be between some cycle racks, and other nearby street furniture generally involve slender features such as

lighting columns and small posts. Although there is a bus shelter further along the pavement and another on the opposite side of King's Road, I observed on my site visit that they appear as generally background features from the more open, visually uncluttered and spacious section of pavement where the site is located.

41. With a significantly greater footprint than the nearby and generally slender street furniture, the kiosk would be a relatively bulky and prominent structure that would reduce the spacious nature of the footway and surrounding streetscene. Visible from various points along the highway, it would therefore be experienced as a dominant, incongruous feature.
42. The development would project further into the footway than the nearby cycle racks and reduce the width of unobstructed footway between the kiosk and building frontage to approximately 3.2 metres. I recognise that the Council's guidance sets out that the footway width for this area should be 4 metres, and I note that appellant's pedestrian survey indicates that the site experiences high levels of pedestrian flows and that the footway should be a little wider than it currently is in order to comply with TfL guidance. However, I observed on my site visit that the kiosk would not project significantly more into the footway than the cycle racks, particularly so when they are in use. The resulting reduction in unobstructed footway would therefore not be significant. The remaining unobstructed footway would also be only slightly narrower than the width referred to in TfL's comments, and the kiosk would not be directly opposite the nearby ATM. Accordingly, I find that the kiosk would not significantly hinder pedestrian movement. Positioned approximately 0.4 metres from the kerb edge, it would also be sufficiently set back to avoid significantly affecting the safety of carriageway users, including cyclists.
43. For the reasons above, the safe and efficient operation of the highway would not be harmed but the siting and appearance of the kiosk would harm the character and appearance of the area. This harm justifies the refusal of prior approval and the dismissal of appeal G.

Appeal H - 150 King's Road

44. The kiosk would be next to a relatively modern building in commercial use on the ground floor and which broadly reflects the character and appearance of the surrounding area. The site lies outside of the nearby Chelsea and Royal Hospital CAs. Due to its location near to two junctions and the sense of openness of the surrounding area stemming from the relatively wide footway, the site is in a reasonably prominent position. The development would be positioned between an existing telephone kiosk and a street tree. There are a number of nearby street furniture, including relatively small cabinets and some slender lighting columns and cycle racks. The bus shelter further along the pavement is situated in a different context to the appeal site, on a narrower and more cramped section of footway.
45. The kiosk would have a greater footprint than much of the surrounding street furniture and would be read as a relatively bulky feature. It would be visually prominent in various views in the locality. Given its position between various items of street furniture, it would also result in a visually congested environment and would erode the openness of the streetscene on this stretch of pavement.
46. The development would be close to a mature street tree which forms a visually important part of the area. The Council's Arboriculturist identifies that the kiosk would encroach into the root protection area significantly. Although the appellant indicates that the works required to install the kiosk would be relatively limited, I have little evidence which demonstrates that its installation would not damage the

tree's roots. It seems to me that the kiosk could therefore harm the tree and threaten its health, which in turn would harm the character and appearance of the surrounding area.

47. The Council's Decision Notice alleges that the kiosk would impede the free flow of pedestrians. However, the evidence before me indicates that the unobstructed footway width between the kiosk and building frontage would be approximately 5.1 metres and the kiosk would be set-back from the kerb edge by approximately 0.5 metres. This is more than the Council's and TfL's guidance advises for this area and the associated Officer Report sets out that kiosk would not unduly impact the pedestrian environment.
48. On this basis, the development would not harm the safe and efficient operation of the highway. However, for the above reasons, the siting and appearance of the kiosk would harm the character and appearance of the area. This harm justifies the refusal of prior approval and the dismissal of appeal H.

Appeal I - 196 King's Road

49. The kiosk would be in front of a relatively modern but well-proportioned building that reflects the more traditional built-form in the surrounding area in terms of its proportions, design and use, with ground-floor commercial units. The site lies outside of the nearby Chelsea and Royal Hospital CAs. Opposite a road junction and in an area with on-street parking restrictions, the site is in a prominent position and is visible from various points in the public realm. The kiosk would be located between a lighting column and post with cycle attachment. Street furniture on either side generally involves slender items such as posts, small street trees and cycle racks. Accordingly, the site and surrounding streetscene appear relatively open and visually uncluttered, with street furniture on the other side of King's Road situated in a different context.
50. With a significantly greater footprint than surrounding street furniture, the kiosk would be experienced as a bulky and dominant structure. Consequently, it would appear as an incongruous feature that would erode the spacious and uncluttered nature of the footway and surrounding streetscene.
51. The kiosk would project further into the footway than adjoining street furniture and reduce the width of unobstructed footway to approximately 2.6 metres. I recognise that the Council's guidance sets out that the footway width for this area should be 4 metres, and I note that appellant's pedestrian survey indicates the site experiences high levels of pedestrian flows and that the footway should be wider than it currently is in order to comply with TfL guidance. However, I observed on my site visit that the kiosk would not be directly opposite existing shop entrances nor project significantly further into the footway when cycles were secured to the nearby post and cycle racks. It seems to me that pedestrian movement from the reduction in unobstructed footway would therefore not be significantly hindered.
52. However, the kiosk would be positioned approximately 0.2 metres from the kerb edge. TfL guidance sets out that kiosks "should be no less than 0.45m from the kerb face" and "should not be installed if doing so would create an obstruction which could pose a safety hazard, ie at the front of a kerb". With the junction opposite and the busy nature of King's Road, the set-back would be insufficient to avoid it posing a safety hazard to carriageway users, including cyclists.
53. For the reasons above, the siting and appearance of the kiosk would harm the character and appearance of the area and be detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal I.

Appeal J - 234 King's Road

54. The site is next to a relatively modern building and within an area characterised by a mix of modern and more traditional built-form. Several buildings have elegant facades and involve commercial uses. The kiosk would be positioned on a spacious section of footway which contains relatively limited street furniture, including trees and slender lighting columns and traffic lights. Given its situation on a corner site and near two road junctions, the site is in a prominent location. Situated just outside the boundary of the Royal Hospital CA, the site is opposite a Grade II Listed Building, Chelsea Town Hall. Contributing positively to the character and appearance of the surrounding area, its significance derives from, amongst other aspects, its architectural detailing and striking facade facing King's Road.
55. The kiosk would have a considerably greater footprint and read as a bulkier, more dominant feature than surrounding street furniture. Visually prominent in the locality, it would therefore appear as an incongruous, intrusive feature that would erode the spacious and visually uncluttered nature of the pavement streetscene. Given its proximity to Chelsea Town Hall and for the above reasons, the kiosk would, despite its simple form, also detract from the significance of the listed building and consequently harm its setting. The harm to its setting would be less than substantial. However, the extent of the benefits, set out above, would be modest based on the development and its use, and therefore do not outweigh the great weight given to the conservation of the designated heritage asset.
56. The appellant's pedestrian survey shows the site experiences high levels of pedestrian flows and that the footway should be 5.3 metres wide in order to comply with TfL guidance. The plan provided by the appellant shows that the development would reduce the width of unobstructed footway between the kiosk and building frontage to approximately 1 metre. I recognise that this would only be for a short distance and that TfL guidance sets out that footways can be reduced to an absolute minimum unobstructed width of 1 metre. However, the unobstructed pavement width would be very limited and, it seems to me, insufficient to avoid the development significantly hindering the free movement of pedestrians in what is a busy pedestrian environment, near to pedestrian crossings and entrances to commercial premises. TfL's guidance also indicates the need for a frontage zone or buffer between the building edge and footway zone, that the clear zone width should relate to the character and use of the street and the volume of pedestrians, and that telephone boxes should not be installed where footway unobstructed widths would be reduced to below 2 metres. The unobstructed footway width would also be significantly below the Council's footway guidance width for this area.
57. For the reasons above, the siting and appearance of the kiosk would harm the character and appearance of the area and setting of the listed building, and would be detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal J.

Appeal K - 183b King's Road

58. In front of an attractive, well-detailed property, the site is within an area containing a mix of traditional and modern built-form with commercial uses on ground floors. Several of the surrounding buildings have elegantly detailed and well-proportioned facades. The site lies within the Royal Hospital CA and near to the Grade II Listed Building, Chelsea Town Hall, whose significance is set out above. In close proximity to a road junction with restricted on-street parking, and in a relatively spacious section of footway which contains only limited and generally slender street furniture, the development would be in a conspicuous position.

59. With a substantially greater footprint than surrounding street furniture, the kiosk would be read as a dominant, bulky addition. Visually prominent in various views in the locality, it would therefore appear as an incongruous, intrusive feature that would detract from the uncluttered, spacious character of the surrounding area.
60. The kiosk would be located in close proximity to a mature street tree which forms a visually important part of the area. The Council's Arboriculturist identifies that the development would encroach into the root protection area significantly. The appellant indicates that the works required to install the kiosk would be relatively limited. However, I have little evidence which demonstrates that its installation would not damage the tree's roots. It seems to me that the kiosk could therefore harm the tree and threaten its health, which in turn would harm the character and appearance of the surrounding area.
61. Although the Council's Officer Report refers to the development adversely affecting eastward views of Chelsea Town Hall, the Council does not allege that the development would harm its setting. From the evidence before me, and on the basis of the distance to the Town Hall, the set-back of the Town Hall from the main building frontage along King's Road and the site's situation on the opposite side of the pavement from the building line, I concur with that view. However, and although reasonably localised in its extent, the development's harm to the character and appearance of the surrounding area would, given the site's location within the Royal Hospital CA, neither preserve nor enhance the character or appearance of the CA. I find this harm to be less than substantial, and in such circumstances, this should be weighed against the public benefits. However, the extent of the benefits, set out above, would be modest based on the development and its use, and therefore do not outweigh the great weight given to the conservation of the designated area.
62. The kiosk would project further into the footway than adjoining street furniture and reduce the width of unobstructed footway to approximately 3 metres. This would comply with the Council's footway guidance width for this area and TfL's guidance in terms of minimum unobstructed footway widths and that telephone boxes should not be installed where footway unobstructed widths would be reduced to below 2 metres. However, pedestrians are currently able to walk both sides of the nearby street tree and the footway narrows to the south-west of the site due to a protruding railing. Positioned between these, the kiosk would create an obstacle and disrupt a pedestrian desire line. This would result in a convoluted footway environment which would significantly hinder the free movement of pedestrians in what is a busy area, near to pedestrian crossings and shop entrances.
63. For the reasons above, the siting and appearance of the kiosk would harm the character and appearance of the area and Royal Hospital CA and be detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal K.

Appeal L - 278 King's Road

64. The kiosk would be in front of a modern building within an area containing a mix of traditional and modern built-form with commercial uses on ground floors. Surrounding buildings generally have well-proportioned, attractive facades. The site lies outside of the nearby Chelsea Park/Carlyle and Cheyne CAs. Located on a section of highway with on-street parking restrictions and close to a road junction, it is in a relatively visible area. The development would be positioned on a section of footway which contains various street furniture, such as a bench, small street trees, lighting columns, an existing telephone kiosk and bus shelters. However, the bus shelters are reasonably well separated from the site and due to the generous

footway width and the reasonable spacing between existing street furniture, the pavement streetscene in the vicinity of the site has a relatively spacious character. The site also provides a clear gap between existing street furniture which contributes positively to the locality.

65. The kiosk would have a greater mass and presence than the bench and tree on either side. It would also be experienced as a bulkier and more prominent feature than other nearby street furniture, including the existing kiosk and the slender lighting columns. Accordingly, the kiosk would appear as an incongruous feature that would harm the openness of the locality, create a visually congested environment and erode the visual break that the site currently provides in the pavement streetscene. Given its location, it would also detract from the rhythm of the adjacent building. Consequently, the siting and appearance of the kiosk would harm the character and appearance of the area. This harm justifies the refusal of prior approval and the dismissal of appeal L.

Appeal M - 359 King's Road

66. Next to a tall, modern building, the site is within an area containing a mixture of modern and traditional built-form with commercial uses on ground floors. Several of the surrounding buildings have elegant, well-proportioned facades. The site lies near to but outside of the Chelsea Park/Carlyle, Sloane/Stanley and Cheyne CAs. It is situated on a bend in King's Road with restricted on-street parking, close to two road junctions and in an area where several buildings are set-back from the highway. Surrounding street furniture is generally limited to slender features such as lighting columns, street trees and posts, with a telephone kiosk situated beyond and in a background context to the north-east. The site therefore occupies a prominent position in a spacious, open part of the streetscene.
67. With a significantly greater footprint and bulk than nearby street furniture, the kiosk would not assimilate with its surroundings and would be experienced as an incongruous, intrusive feature in the pavement streetscene. Visually prominent in the locality, it would erode the area's spacious nature and detract from the uncluttered character of the public realm.
68. The appellant's pedestrian survey indicates that the site experiences high levels of pedestrian flows. The kiosk would project further into the footway than adjoining street furniture and, as shown on the proposed plan, reduce the width of unobstructed footway to approximately 4.4 metres at the narrowest point. This would comply with the Council's footway guidance width for this area and TfL's guidance on unobstructed footway widths. However, with the adjoining building featuring a series of set-backs and projections, I observed on my site visit that there is a pedestrian desire line which avoids the building's recesses. The kiosk would intersect with and disrupt the desire line, creating an obstacle in the footway which pedestrians would have to divert around. It would therefore hinder the free movement of pedestrians in what is a busy stretch of footway.
69. The kiosk would be positioned approximately 0.3 metres from the kerb edge. TfL guidance sets out that kiosks "should be no less than 0.45m from the kerb face" and "should not be installed if doing so would create an obstruction which could pose a safety hazard, ie at the front of a kerb". Given the busy nature of the highway and the site's position near to road junctions and on a bend on King's Road, it seems to me that the kiosk's set-back would be insufficient to avoid it posing a safety hazard to carriageway users, including cyclists. It could also limit views along the highway, including of the nearby junction and parking space to the south-west of the site.

70. For the reasons above, the siting and appearance of the kiosk would harm the character and appearance of the area and be detrimental to the safe and efficient operation of the highway. This harm justifies the refusal of prior approval and the dismissal of appeal M.

Other matters

71. My attention has been drawn to two appeal decisions for telephone kiosks. However, they are in different locations to these appeals and I cannot determine whether their circumstances are analogous to the cases before me because I do not have the full details of examples. Accordingly, I have determined these appeals on their individual merits, based on the evidence before me and my observations at the time of my site visits.
72. The kiosks would be an accessible facility available for use by the local community, and their open design would discourage anti-social behaviour and criminal activity. Supporting high quality communications infrastructure, the Framework sets out that communications infrastructure is essential for economic growth and social well-being. I recognise that the Framework also indicates that planning decisions should support the expansion of electronic communications networks and not seek to prevent competition. However, this does not indicate that harmful development should be permitted. The GPDO also requires that these developments are assessed solely on the basis of siting and appearance, and I have determined the appeals on this basis.

Conclusion

73. For the reasons above, the appeals A-M are dismissed.

Tobias Gethin

INSPECTOR