



Appeal Decisions

Site visit made on 1 August 2019

by D Child BA BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 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, Schedule 2, Part 16 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 Liverpool City Council.
 - The development proposed in each case was originally described as a “call box”.
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Appeal A – Appeal Ref: APP/Z4310/W/18/3192541

Public highway, adjacent to 97 Lord Street, Liverpool L2 6PG

Grid Reference Easting: 334540 and Grid Reference Northing: 390299

- The application Ref 17PP/1508, application dated 1 June 2017, was refused by notice dated 5 July 2017.
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Appeal B – Appeal Ref: APP/Z4310/W/18/3192560

Public Highway, College Lane, adjacent to 35 Paradise Street, Liverpool L1 3ED

Grid Reference Easting: 334570 and Grid Reference Northing: 390140

- The application Ref 17PP/1506, application dated 1 June 2017, was refused by notice dated 6 July 2017.
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Appeal C – Appeal Ref: APP/Z4310/W/18/3192568

Public highway, School Lane, adjacent to 17-18 Paradise Street, Liverpool L1 3DE

Grid Reference Easting: 334568 and Grid Reference Northing: 390211

- The application Ref 17PP/1529, application dated 1 June 2017, was refused by notice dated 6 July 2017.
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Appeal D – Appeal Ref: APP/Z4310/W/18/3192569

Public highway, adjacent to 41 Paradise Street, Liverpool L1 3EU

Grid Reference Easting: 334543 and Grid Reference Northing: 390085

- The application Ref 17PP/1541, application dated 1 June 2017, was refused by notice dated 6 July 2017.
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Appeal E – Appeal Ref: APP/Z4310/W/18/3192570

Public highway, Paradise Street junction with Wall Street, Liverpool L1 3EU

Grid Reference Easting: 334544 and Grid Reference Northing: 390086

- The application Ref 17PP/1555, application dated 1 June 2017, was refused by notice dated 6 July 2017.
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Appeal F – Appeal Ref: APP/Z4310/W/18/3192777

Public highway, Houghton Street, near junction with Parker Street, Liverpool L1 1DP

Grid Reference Easting: 334852 and Grid Reference Northing: 390334

- The application Ref 17PP/1531, application dated 1 June 2017, was refused by notice dated 18 July 2017.
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Appeal G – Appeal Ref: APP/Z4310/W/18/3192781

Public highway, adjacent to 88 Church Street, Liverpool L1 3HD

Grid Reference Easting: 334831 and Grid Reference Northing: 390220

- The application Ref 17PP/1533, application dated 1 June 2017, was refused by notice dated 18 July 2017.
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Appeal H – Appeal Ref: APP/Z4310/W/18/3192830

Public highway, adjacent to 53 North John Street, Liverpool L2 6SP

Grid Reference Easting: 334400 and Grid Reference Northing: 390315

- The application Ref 17PP/1535, application dated 1 June 2017, was refused by notice dated 18 July 2017.
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Appeal I – Appeal Ref: APP/Z4310/W/18/3192837

Public highway, adjacent to 55 Lord Street, Liverpool L2 6PD

Grid Reference Easting: 334440 and Grid Reference Northing: 390293

- The application Ref 17PP/1563, application dated 1 June 2017, was refused by notice dated 18 July 2017.
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Appeal J – Appeal Ref: APP/Z4310/W/18/3192853

Public highway, adjacent to 56-58 Lord Street, Liverpool L2 1TD

Grid Reference Easting: 334469 and Grid Reference Northing: 390286

- The application Ref 17PP/1565, application dated 1 June 2017, was refused by notice dated 20 July 2017.
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Appeal K – Appeal Ref: APP/Z4310/W/18/3192859

Public highway, Vauxhall Road, near junction with Tithebarn Street, Liverpool L2 2ER

Grid Reference Easting: 334418 and Grid Reference Northing: 390935

- The application Ref 17PP/1567, application dated 1 June 2017, was refused by notice dated 18 July 2017.
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Appeal L – Appeal Ref: APP/Z4310/W/18/3192548
Public highway, adjacent to 81 Lord Street, Liverpool L2 6PG
Grid Reference Easting: 334506 and Grid Reference Northing: 390300

- The application Ref 17PP/1558, application dated 1 June 2017, was refused by notice dated 5 July 2017.
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Decisions

1. All the appeals are dismissed.

Preliminary and Procedural Matters

2. I have taken the address of Appeal B from the appeal form, which the Council have used in their decision notice, as this more accurately describes the location. The description of development set out in the banner headings above has been taken from the application forms, which describe the developments proposed as a 'call box'. Notwithstanding this, as it more accurately describes the proposed developments, I will consider the appeals on the basis of the appeal forms, which describe the proposed developments as 'Prior approval for siting and appearance: Installation of a telephone kiosk'. I am satisfied that this has not prejudiced either party.
3. Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) requires the local planning authority, and therefore the Secretary of State, to assess the proposed developments solely on the basis of their siting and appearance. In accordance with Murrell¹, matters such as the principle of development and the need for the facilities are not issues which fall within the scope of the appeals. My determinations will be made with regard to the siting and appearance of the proposed developments, in accordance with the GPDO.
4. Both main parties have drawn my attention to the development plan policies which they consider to be relevant to the appeals. I have taken them into account only insofar as they are material considerations relevant to matters of siting and appearance. I consider the most relevant policy to be Policy HD18 of the Liverpool Unitary Development Plan 2002 (UDP).
5. In the course of determining the appeals a judgment has been handed down² concerning prior approval for telephone kiosk development, ruling that the whole development for which prior approval is sought must fall within the class applied for. The appellant was given the opportunity to comment on the relevance of this judgment to the appeals, and I have considered the comments received.
6. The appellant's planning statements refer to revenue from commercial advertising cross-subsidising the installation of its network and its ongoing maintenance and repair. Illustrative photographs have been supplied with the appeals of a similar type of telephone kiosk to those proposed, displaying advertisements on their rear. Notwithstanding this, my own assessment is that, while a non-illuminated poster advert could subsequently be accommodated

¹ *Murrell v Secretary of State for Communities and Local Government and Broadland District Council* [2010] EWCA Civ 1367

² *Westminster CC v SSHCLG & New World Payphones Ltd* [2019] EWHC 176 (Admin)

on, or behind, the toughened glass access door on the rear of the telephone kiosks, they do not constitute development that is dual purpose.

7. In all appeals, the appellant is not seeking advertisement consent. Because the proposals are solely for the purpose of the operator's electronic communications network, they would therefore fall within the permitted development right. With reference to an earlier judgment³ I note the Council is satisfied that, while the kiosks have the potential to be altered in appearance by advertising material, this has not been determinative in their decisions on the applications.
8. Since the appeals have been made, the National Planning Policy Framework (the Framework) has been revised. Because policies in relation to telecommunications development (paragraphs 112-116) have not changed fundamentally, I have had regard to the revised framework as a material consideration. I am satisfied that this has not cause prejudice to either party.
9. The appeals refer to technical guidance contained within the 'Pedestrian Comfort Guidance' produced by Transport for London (TfL) for London Streets, and the TfL Streetscape Guidance 2017, as examples of best practice. With reference to this guidance, a technical assessment of each appeal site has been supplied by the appellant. While this guidance is noted, it does not appear to be guidance adopted by Liverpool City Council. The Council has referred to a 2010 joint statement by the Department of Communities and Local Government and the Department for Transport in respect of reducing clutter, but I have not been provided with a copy of this document. Consequently, I shall consider each appeal on its individual planning merits in relation to the main issues below.

Main Issues

10. In all cases the main issues are the effect of the siting and appearance of the proposed telephone kiosk (the kiosk):
 - (a) on the character and appearance of the area, and;
 - (b) on the safe and efficient operation of the highway network, including the pedestrian environment.

Reasons

All appeals

11. In each appeal the proposed kiosk would have a footprint measuring approximately 0.550m x 1.325m and would be approximately 2.6m high at their highest point. The overhanging roof would measure 1.125m x 1.325m in plan form and would incorporate a solar photovoltaic panel to provide a renewable source of power. Each kiosk would be of a consistent and simple modern functional design, incorporating toughened glass side and rear panels, finished in steel. Because they are wider than conventional telephone kiosks, each kiosk would be wheelchair accessible, which is a positive aspect of their design.

³ *Infocus Public Networks Ltd v SSCLG & The Mayor and Commonality of the Citizens of London* (2010) EWHC 3309 (Admin)

12. Photographs and plans of each site have been supplied, as part of a 'dashboard', showing the immediate context and existing elements of street furniture. The proposed kiosks would all be located within the Liverpool 1 and Liverpool 2 postcode areas, within the City Centre. It is clear to see that the Centre has undergone significant public realm improvements, including high quality footway surfacing and a unified approach to the design of seating and planters, and the rationalisation of street furniture.
13. The kiosks are all located on key thoroughfares where usage would therefore be highest, and they are intended to allow for the inclusion of 3G, 4G and 5G small cells, to fill in gaps within the existing mobile network, and provide Wifi capabilities.
14. All sites are located within the Liverpool Maritime Mercantile World Heritage Site (WHS) Buffer Zone. The WHS has outstanding universal value primarily because:
 - Liverpool played a leading role in the development of dock construction, port management and international trading systems in the 18th and 19th centuries;
 - the buildings and structures of the port and city are an exceptional testimony to mercantile culture; and
 - Liverpool played a major role in influencing globally significant demographic changes in the 18th and 19th centuries through (a) its involvement in the trans-Atlantic slave trade and (b) its involvement as the leading port of mass European emigration to the New World.
15. The WHS Supplementary Planning Document (WHS SPD) indicates that the buffer zone is to ensure that development does not adversely affect the setting of the WHS.
16. While the proposed kiosks are relatively lightweight structures and modest in scale, paragraph 194 of the Framework, amongst other things, states that any harm to, or loss of the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. I shall proceed to consider the effect of each proposal on a case by case basis.
17. The GPDO establishes the principle of the need for such telephone kiosks but the benefits of providing them are inevitably related to whether there are other existing pay phones in the vicinity. If there are no existing pay phones then the benefits of new pay phones must necessarily be enhanced, even despite the widespread use of mobile phones. This is especially relevant in the context of paragraph 196 of the Framework, which states that 'less than substantial harm' to a designated heritage asset should be weighed against the public benefits of a proposal. In these appeals, as set out below, I address where relevant the availability of other such kiosks in the locality, as well as weighing the benefits of providing new pay phone kiosks against harm to the immediate locality, including where relevant to the WHS.

Appeal A - Adjacent to 97 Lord Street

18. The proposed kiosk would be located close to the junction of the pedestrianised Lord Street with Paradise Street, Church Street, and Whitechapel. Either side of this junction, to the northern sides of Lord Street and Church Street, are two pairs of raised planters with seats, one pair to each street, containing semi-mature trees. The two pairs of planters give rise to balance and symmetry in views from the public realm up Paradise Street towards the 'Castle St/Dale St/Old Hall St Commercial District' WHS Character Area, which can also be seen in longer distance views to the west along Lord Street.
19. The proposed kiosk would be sited between raised planters, adjacent to Sheffield cycle stands. The kiosk would unbalance the formality of their siting, and consequently would have a negative visual impact on the public realm from within which the WHS is enjoyed.
20. There are a significant number of existing telephone kiosks, of differing designs, and digital advertising panels on this side of the street. The proposal would extend this line of features. The addition of the proposed kiosk would harm the setting of the WHS as it would cumulatively result in unacceptable visual clutter. The harm to the significance of the setting of the WHS would be less than substantial, given the modest scale of the proposal. Nevertheless, I attach significant weight to this harm. Having regard to paragraph 196 of the Framework, I consider that the public benefits of the kiosk (as outlined above) do not outweigh the identified harm.
21. While the kiosk would reduce the gap between planters, there is no evidence before me that the kiosk would unacceptably impede pedestrian movement or harm the safe and efficient operation of the highway network.
22. Accordingly, I conclude that the proposed kiosk would be harmful to the character and appearance of the area. This harm justifies dismissal of appeal A.

Appeal B – College Lane, adjacent to 35 Paradise Street

23. College Lane is a linearly aligned and pedestrianised street, linking Paradise Street with Hanover Street. Tall tubular lighting columns follow the line of footway surfacing detail, and this part of the street is absent of significant street furniture. Together with the crisp lines of the modern architecture on both sides of this part of the street, this creates strong and uncluttered visual lines down the slope of College Lane, which frame views of a stairway at the end of the street leading to a modern development to the west.
24. College lane is relatively wide, and I saw at my visit that the outdoor seating of an adjacent Starbucks coffee shop extends further onto the pavement than the proposed kiosk would. Because of this, the proposed development would not unacceptably impede pedestrian flows, or harm the safe and efficient operation of the highway network.
25. The proposed kiosk would be sited against a section of brick wall, between the glazed side windows of the Starbucks outlet and a glazed entrance further along the street. The appearance of the proposed kiosk would not be at odds with the modernist urban grain of established development, or the design of the lighting columns. Due to a lack of clear inter-visibility, the kiosk would not harm the setting of the nearby WHS. It would however introduce unacceptable

visual clutter. The proposed kiosk would be harmfully juxtaposed with the uncluttered clean lines of the street. Accordingly, the proposed kiosk would be harmful to the character and appearance of the area. This harm justifies dismissal of appeal B.

Appeal C - Adjacent to 17-18 Paradise Street

26. Although described as being adjacent to 17-18 Paradise Street, the proposed kiosk would be situated on the footway of School Lane, adjacent to a blank side wall of 17-18 Paradise Street. School Lane is a one-way street, linking Paradise Street with a number of side streets and Hanover Street. There is little street furniture on this part of the street, highway lighting being affixed to buildings.
27. The proposed kiosk would be situated on a part of the street that has a shared surface. The footway on this side of the street is delineated by paving stones, which wrap around the gable of a building which projects into the street. Pedestrians are naturally drawn to the stone flag surface. However, as I saw at my visit, many choose to walk on the tarmac surface instead. The proposed siting on the demarked footway would not therefore impede pedestrian flows.
28. The building which projects into the street obscures views of the WHS from the appeal site, and, as a relatively modest structure, the kiosk would not therefore harm the enjoyment of the WHS in views from the appeal site. Nevertheless, in the absence of existing street furniture, the proposed development would create visual clutter that would be incompatible with the existing street scene. The kiosk would appear clumsily sited on the demarked footway.
29. Accordingly, I find that the proposed kiosk would be harmful to the character and appearance of the area. This harm justifies dismissal of appeal C.

Appeal D - Adjacent to 41 Paradise Street

30. Appeal site D is located close to the pedestrianised junction of Paradise Street with Hanover Street, Manesty's Lane, and Thomas Steers Way. The angular architectural lines of an adjacent contemporary building contrast with the curved frontage of the John Lewis store opposite, both of which are framed by the openness of the junction.
31. Other than lighting columns and bins, the visually uncluttered junction of these streets gives the public realm an open and spacious feel. The area around the appeal site provides a clear setting to 'The Albert Dock Conservation Area' and 'Lower Duke Street' WHS Character Areas, which can be appreciated in views from the appeal site.
32. Because the pedestrianised junction is wide, the proposed kiosk would not impede pedestrian flows to any unacceptable degree or be harmful to the safe and efficient operation of the highway network. Nevertheless, while it would be a relatively modest structure, the presence of the proposed kiosk in this context would impinge on the openness of the junction and constitute unacceptable visual clutter that would be harmful to the setting of the WHS. The public benefits do not outweigh the identified harm, to which I attach substantial weight.
33. Accordingly, the proposed kiosk would be harmful to the character and appearance of the area. This harm justifies dismissal of appeal D.

Appeal E - Paradise Street junction with Wall Street

34. The appeal site is located on a pedestrianised part of the street that is relatively wide, with modern retail and leisure uses on either side. The proposed kiosk would be sited between a semi-mature tree and a digital advertisement display. The gap between the adjacent advertisement display and the tree is relatively small, as is the gap between them and nearby bins, street lighting columns and two kiosk shop units. Together, these form a significant line of existing features in the street scene on this side of the street.
35. The street is relatively wide, and a gap would remain between existing street furniture and trees. I therefore find that the proposed siting of the kiosk would not impede pedestrian movement. The proposal would however add to a line of street furniture and would, cumulatively with the existing advertisement display, result in unacceptable visual clutter in the street scene.
36. Paradise street ceases to be pedestrianised at the junction with Hanover Street to the south and provides a clear setting to the 'Lower Duke Street' WHS Character Area, which can be appreciated in views from the appeal site. While the structure would be relatively modest, as a result of the cumulative harm identified above, it would be harmful to the setting of the WHS. Significant weight is attached to this harm, which is not outweighed by the public benefits of the appeal scheme.
37. Accordingly, I find that the proposed kiosk would be harmful to the character and appearance of the area. This harm justifies dismissal of appeal E.

Appeal F - Houghton Street, near junction with Parker Street

38. Houghton Street and Parker Street are wide pedestrianised streets. The proposed kiosk would be located at the end of a line of mature trees that display symmetry with a line of trees opposite. This soft landscaping frames views down Houghton street, towards the Radio City Tower landmark.
39. While there are a number of existing telephone kiosks and postal boxes on one side of the street, these are sited next to the retail colonnade of the St John's shopping centre. In contrast, the proposed kiosk would appear isolated in the middle of the street scene and it would unbalance the strong linearity and symmetry of established landscaping. Although a relatively modest structure, because of its height and width, the proposed kiosk would be harmful in views down the street towards the Tower.
40. The proposed kiosk would not impede pedestrian movement or have any harmful effect on the safe and efficient operation of the highway network. The kiosk would not harm the setting of the WHS, given its siting in relation to it. Nevertheless, for the above reasons, I find that the proposed kiosk would be harmful to the character and appearance of the area. This harm justifies dismissal of appeal F.

Appeal G - Adjacent to 88 Church Street

41. The kiosk would be located at the end of Church Street, close to the junction with Hanover Street, Ranelagh Street and Bold Street, opposite the busy Liverpool Central Station. Church Street is pedestrianised, and, as one of the City Centre's main shopping streets, footfall is high in this location. The kiosk

would be sited in between planters, close to the entrance of an adjacent Lloyds Bank branch at the end of the Street, near to a digital advertisement display.

42. The pavement in between planters is currently free of obstruction. This and contrasting surfacing materials give the pedestrianised public realm an open feel, allowing for easy pedestrian movement. Nevertheless, given the width of the street and the generous spacing between planters, although footfall is high the proposed kiosk would not unacceptably impede pedestrian movement.
43. While the kiosk would be located within the WHS buffer zone, the structure would be relatively modest in scale. The proposed development would not be seen in views from which the WHS is appreciated. It would not therefore harm the setting of the WHS. Nevertheless, the proposed structure would add visual clutter to the street scene which, cumulatively with existing street furniture and the digital advertising display, would be unacceptable.
44. Accordingly, the proposal would be harmful to the character and appearance of the area. This harm justifies the dismissal of Appeal G.

Appeal H - Adjacent to 53 North John Street

45. The proposed kiosk would be situated on the eastern side of the street opposite the historic Marlton Chambers, which are located within the WHS 'Castle St/Dale St/Old Hall St Commercial District' Character Area. Other than limited highway infrastructure and a few bins, the pavement on this part of the street is free of significant clutter.
46. While the proposal would be set against the backdrop of a modern building on the same side of the street, North John Street provides a clear setting to the WHS. The proposed kiosk would be an unwelcome interruption to the uncluttered appearance of North John Street, and it would be visually harmful in views into the WHS. It would be contrary to the guidance in the WHS SPD to reduce street clutter. As the kiosk is a modest structure, the harm to the significance of the setting of the WHS would be less than substantial. Nevertheless, I attach significant weight to this harm. Having regard to paragraph 196 of the Framework, I consider that the public benefits do not outweigh the identified harm.
47. Although the highway authority has not objected, I note the Council is concerned that the proposed kiosk would impede pedestrian movement onto Lord Street. However, at this location the footway is wider. The submitted 'dashboard' shows the total footway width to be approximately 5 metres wide. As a result, I find that the proposed siting would not impede pedestrian movement.
48. The site is however located close to the site of the famous Cavern Club. As a consequence, footfall on the street is significant. From the submitted 'dashboard', the appellant estimates the level of pedestrian flow to be high, with over 1200 pedestrians per hour. The proposed kiosk would be sited close to a controlled pedestrian crossing, near the corner of Lord Street, on a part of the footway that is built-out in order to accommodate a taxi rank. Due to its height and width, the proposed kiosk would significantly reduce taxi drivers' visibility of pedestrians crossing the street behind it in advance of the adjacent crossing. As a result, I find that there would be an increased risk of collisions

involving pedestrians which would be detrimental to highway and pedestrian safety.

49. Accordingly, I conclude that the siting and appearance of the proposed kiosk would harm the character and appearance of the area, and, notwithstanding the lack of objection from the highway authority, that it would be detrimental to the safe and efficient operation of the highway. This harm justifies the dismissal of appeal H.

Appeal I - Adjacent to 55 Lord Street

50. Appeal site I is located on the same side of the street as appeal sites A and L. The proposed kiosk would be located between two planters that are part of a row of three that are equally spaced apart, with semi-mature trees within them and seating around them. The proposal would be adjacent to a pair of existing kiosks. Character Area 4 of the WHS is located very close to the appeal site.
51. There are a significant number of existing kiosks, digital advertising display panels, and other items of street furniture on this side of the street. The proposed siting in between planters would be at odds with the formality of their regular spacing. If allowed, the appeal would result in 4 kiosks in the space of a short length of the highway which would be visible in views of historic buildings within the WHS. In combination with existing telephone kiosks, the proposed siting would create unacceptable visual clutter that would be harmful to the setting of the adjacent WHS. The public benefits do not outweigh the identified harm, to which I attach substantial weight.
52. Although the kiosk would be sited close to an existing kiosk and between planters, it would not create a barrier to pedestrian permeability or harm the safe and efficient operation of the highway network.
53. Accordingly, the siting and appearance of the proposed kiosk would harm the character and appearance of the area. This harm justifies the dismissal of appeal I.

Appeal J - Adjacent to 56-58 Lord Street

54. The appeal site is located on the opposite side of Lord Street to appeal sites A, I and L, diagonally opposite appeal site I. There are a significant number of existing kiosks on Lord Street, together with digital advertising display panels, bins and cycle stands. The proposed kiosk would be located at the end of a row of three raised planters.
55. While the side of Lord Street where appeal kiosk J would be sited is less cluttered by existing kiosks and digital advertising display panels than other parts of the street, the kiosk would nevertheless increase the number of kiosks visible across a short length of the street, from which views of the WHS are enjoyed. In views down the street, it would be harmful to the contribution the soft landscaping of the planters makes to the street scene. Individually, it would introduce visual clutter on this part of this side of the street. Cumulatively with existing kiosks and advertisements, the proposal would result in unacceptable visual clutter that would be harmful to the setting of the nearby WHS. The public benefits do not outweigh the identified harm, to which I attach substantial weight.

56. While I have found the proposal would harm the character and appearance of the area, there is no evidence before me that it would impede pedestrian movement along the street. I therefore consider it would not harm the safe and efficient operation of the highway network. Accordingly, the siting and appearance of the proposed kiosk would harm the character and appearance of the area. This harm justifies the dismissal of appeal J.

Appeal K - Vauxhall Road, near junction with Tithebarn Street

57. Vauxhall Street is a wide, major arterial route into the City. On this side of the street the footway is also wide, sweeping around the curved facade of the John Moores University Tithebarn Building. Buildings on two opposite corners of the junction are also curved, giving it an open and spacious feel. On the corner of the street is the 'Superlambanana', a piece of public artwork. Save for this, highway infrastructure and a postal box further up the street, the section of footway where the kiosk is proposed to be sited is relatively free of clutter.
58. Having regard to the generous width of the footway the proposed scheme would not impede pedestrian movement or be detrimental to the safe and efficient operation of the highway network.
59. While the top of the Liver Building within Character Area 1 of the WHS can be seen in views down Tithebarn Street, it cannot be seen in views from the appeal site itself, and the WHS is some considerable distance away. The kiosk would not therefore in my view harm the setting of the WHS. However, the proposed kiosk, by virtue of its height and width, would be harmful to the spacious feel and relatively uncluttered appearance of the street scene, resulting in unacceptable visual clutter.
60. Accordingly, it would be harmful to the character and appearance of the area. This harm justifies the dismissal of appeal K.

Appeal L - Adjacent to 81 Lord Street

61. Appeal site L is located close to appeal site A (97 Lord Street), on the same side of the street, and would be situated between an existing telephone kiosk with a digital advertising display panel on its rear, and a digital display panel.
62. Because the proposed kiosk would be located further along Lord Street, it would not be significant in views up Paradise Street. The proposed kiosk would however be sited close to an existing telephone kiosk, of which there are a significant number on a relatively short stretch of Lord Street. Sufficient space would remain between the proposed kiosk and the existing kiosk and digital advertising display, in order to allow for pedestrian movement in between them. Nevertheless, cumulatively with existing kiosks, the proposal would lead to unacceptable visual clutter that would be harmful to the setting of the WHS Character Area 4, which can be enjoyed in views towards the end of the street past the appeal site. The public benefits of the proposal do not outweigh the harm.
63. Accordingly, it would be harmful to the character and appearance of the area. This harm justifies the dismissal of appeal L.

Other Matters

64. Other appeal decisions have been drawn to my attention to support the appeals. However, they relate to different sites within different locational contexts which are not therefore directly comparable. In any event, each case must be considered on its own individual merits.
65. The appellant is concerned that in giving the same reason for refusal for each application the Council has, in effect, applied a blanket ban on new electronic communications development, contrary to guidance within the Framework at paragraph 114. The Council has however supplied a delegated report for each application, setting out the site circumstances and the rationale for each decision. I am therefore satisfied that the Council has not sought to apply a blanket ban.

Conclusions

66. For the above reasons none of the proposed kiosks would be acceptable. They would all conflict with UDP Policy HD18 (General Design Requirements), which requires development to relate well to its locality and does not detract from local views within the City.
67. Accordingly, I conclude that all the appeals should be dismissed.

D Child

INSPECTOR