



Appeal Decisions

Site visits made on 2 September 2019 by Alex O'Doherty LLB(Hons) MSc

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2020

CASE DETAILS

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 City of Westminster Council.
 - The development proposed in each case is 'a public call box'.
-

Appeal A - Ref: APP/X5990/W/19/3228890

Public Highway, Bayswater Road Adjacent Lancaster Gate Station, London W2 2UE

- The application Ref 18/08406/TELCOM dated 01 October 2018, was refused by notice dated 20 November 2018.
-

Appeal B - Ref: APP/X5990/W/19/3225077

Public Highway, Lancaster Terrace Junction Bayswater Road, London W2 2UE

- The application Ref 18/06628/TELCOM dated 6 August 2018, was refused by notice dated 20 September 2018.
-

Appeal C - Ref: APP/X5990/W/19/3228883

Public Highway, Great Western Road Adjacent Derrycombe House, London W2 5UF

- The application Ref 18/08389/TELCOM dated 01 October 2018, was refused by notice dated 20 November 2018.
-

Appeal D - Ref: APP/X5990/W/19/3228463

Public Highway, Adjacent 260 Harrow Road, London W2 5ES

- The application Ref 18/08400/TELCOM dated 01 October 2018, was refused by notice dated 19 November 2018.
-

Appeal E - Ref: APP/X5990/W/19/3228797

Public Highway, Edgware Road Adjacent Parsons House, London W2 1NE

- The application Ref 18/08381/TELCOM dated 01 October 2018, was refused by notice dated 20 November 2018.
-

Appeal F - Ref: APP/X5990/W/19/3225075

Public Highway, 383-393 Edgware Road, London W2 1BT

- The application Ref 18/06629/TELCOM dated 6 August 2018, was refused by notice dated 20 September 2018.
-

Appeal G - Ref: APP/X5990/W/19/3228794

Public Highway, 420 Edgware Road, London W2 1ED

- The application Ref 18/08367/TELCOM dated 01 October 2018, was refused by notice dated 20 November 2018.
-

Appeal H - Ref: APP/X5990/W/19/3228801

Public Highway, Edgware Road Adjacent Gilbert Sheldon House, London W2 1BX

- The application Ref 18/08382/TELCOM dated 01 October 2018, was refused by notice dated 20 November 2018.
-

Appeal I - Ref: APP/X5990/W/19/3228461

Public Highway, 4 Harrow Road, London W2 1XJ

- The application Ref 18/08393/TELCOM dated 01 October 2018, was refused by notice dated 19 November 2018.
-

Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Appeal C

3. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a public call box at land at Public Highway, Great Western Road Adjacent Derrycombe House, London W2 5UF in accordance with the terms of the application Ref 18/08389/TELCOM, dated 01 October 2018, and the plans submitted with it including plan nos Max 2 Assembly (Rev C), 1:1250 OS map, 1:200 OS map.

Appeal D

4. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a public call box at land at Public Highway, Adjacent 260 Harrow Road, London W2 5ES in accordance with the terms of the application Ref 18/08400/TELCOM, dated 01 October 2018, and the plans

submitted with it including plan nos Max 2 Assembly (Rev C), 1:1250 OS map, 1:200 OS map.

Appeal E

5. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a public call box at land at Public Highway, Edgware Road Adjacent Parsons House, London W2 1NE in accordance with the terms of the application Ref 18/08381/TELCOM, dated 01 October 2018, and the plans submitted with it including plan nos Max 2 Assembly (Rev C), 1:1250 OS map, 1:200 OS map.

Appeal F

6. The appeal is dismissed.

Appeal G

7. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a public call box at land at Public Highway, 420 Edgware Road, London W2 1ED in accordance with the terms of the application Ref 18/08367/TELCOM, dated 01 October 2018, and the plans submitted with it including plan nos Max 2 Assembly (Rev C), 1:1250 OS map, 1:200 OS map.

Appeal H

8. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a public call box at land at Public Highway, Edgware Road Adjacent Gilbert Sheldon House, London W2 1BX in accordance with the terms of the application Ref 18/08382/TELCOM, dated 01 October 2018, and the plans submitted with it including plan nos Max 2 Assembly (Rev C), 1:1250 OS map, 1:200 OS map.

Appeal I

9. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a public call box at land at Public Highway, 4 Harrow Road, London W2 1XJ in accordance with the terms of the application Ref 18/08393/TELCOM, dated 01 October 2018, and the plans submitted with it including plan nos Max 2 Assembly (Rev C), 1:1250 OS map, 1:200 OS map.

Appeal Procedures

10. The site visits were undertaken by an Appeal Planning Officer whose recommendations are set out below and to which the Inspector has had regard before deciding the appeals.

Procedural Matters

Scope of appeal decisions

11. This decision letter relates to 9 appeals for public call boxes at the addresses above, pursuant to Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'), where the proposals are identical. However, each appeal has been determined on its merits, with reference to observations taken on site.

Effect of the 2019 amending Regulations

12. The Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 amended the GPDO by removing the permitted development right to install a public call box under Schedule 2, Part 16, Class A of the GPDO. However, transitional and saving provisions provide that where an appeal has been made within 6 months of the date of notice of refusal of a prior approval application submitted before 25 May 2019, the planning permission granted by Schedule 2, Part 16, Class A continues to have effect in relation to a public call box as if the amendments made to the GPDO by the 2019 Regulations had not been made. That is the case in respect of all the appeals in this decision letter.

Development plan policies

13. The Council have referred to a number of development plan policies and associated documents. As the principle of development has been established through the grant of permission by the GPDO, prior approval appeals are not determined on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004. However, I have taken the development plan policies and associated documents into account insofar as they are relevant to the prior approval matters of siting and appearance.

Listed buildings

14. Whilst s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply to prior approval appeals because planning permission has been granted by the GPDO, in order to assess the siting and appearance of the proposals, the impact on the setting of relevant listed buildings has been considered. In relation to Appeal B (3225077), the parties were asked for their comments on the effect of the proposal on the setting of both 3 to 5 Lancaster Terrace and 61 to 64 Bayswater Road. The comments received have been taken into account in the determination of that appeal.

Main Issues

15. The main issues are whether or not each of the proposals comprise permitted development under Schedule 2, Part 16, Class A of the GPDO, and if they do whether prior approval should be given for their siting and appearance, with regards to:
 - the effect of the proposed structures on the character and appearance of the area (all Appeals), including the setting of the Bayswater Conservation Area

- and the setting of the Royal Parks Conservation Area (Appeals A and B only), and the setting of the Maida Vale Conservation Area (Appeal E only); and
- the effect of the proposed structures on pedestrian flow (all Appeals).

Reasons for the Recommendations

16. The proposals relate to public call boxes, identified as the 'Max 2' design type. They measure approximately 3.1m x 1.3m x 0.2m. On one side is the telecommunications apparatus, and angled photovoltaic panels are positioned at the top of the structure.

Whether permitted development

17. Schedule 2, Part 16, Class A of the GPDO refers to "Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network...". In this regard I have no evidence before me to indicate that the appellant is not an electronic communications code operator.
18. With regards to the purpose of the development, I have considered the judgment made in *Westminster CC v SSHCLG & New World Payphones Ltd* [2019] EWHC 176 (Admin) which confirmed 'that the whole development for which prior approval is sought must fall within the class relied on, and no part of it can fall outside it'. It also confirmed that a development falls outside the scope of Part 16, Class A if it is not 'for the purpose' of the operator's network. In *Westminster* the proposed kiosk was for a dual purpose of advertisement display and telecommunications function.
19. The proposals before me do not include any advertisement material and it is clear from the form and design of the proposed telecommunications apparatus that it is driven by its proposed functionality as a public call box. Consequently, on the basis of the evidence provided in these appeals, I consider that the proposal in each case is for the purpose of the operator's electronic communications network and comprises development that is permitted under Schedule 2, Part 16, Class A of the GPDO. Whilst the need for the development has been raised, the National Planning Policy Framework ('the Framework') makes it clear that decision makers should not question the need for an electronic communications system. Therefore, matters of need (including a lack of need) are not relevant, and have not been taken into account in the consideration of these appeals.
20. Given the above, the provisions of the GPDO under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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 consideration of these appeals has been made on the same basis.

Appeal A - Public Highway, Bayswater Road Adjacent Lancaster Gate Station, London

Character and appearance

21. The appeal site comprises a fairly wide area of footway situated adjacent to Lancaster Gate Underground Station, close to a bus stop. From near the junction with Lancaster Terrace towards the appeal site there is a variety of street furniture, including lamp posts, small trees, litter/recycling bins, a public telephone box, a pedestrian information sign and a red post box. This long line of existing street furniture and soft landscaping, combined with the substantially-sized tree found towards the turning to Westbourne Street, provides a busy view to the road. As such, the street is already experiencing a high degree of clutter. The new public call box would materially worsen this situation. It would be a visually discordant and obtrusive feature in the street scene and would harm the character and appearance of the area.
22. The appeal site is situated outside the Royal Parks Conservation Area (RPCA) and the Bayswater Conservation Area (BCA), but due to its location at the cusp of both of those conservation areas, is within their setting. The significance of the RPCA derives in part from the beautiful and natural setting that is provided to the surrounding buildings. The significance of the BCA derives in part from the preponderance of architecturally grand buildings, including classically detailed porches with railings and balconies. The proposal would be small in scale in relation to the overall townscape and would not result in harm to the setting of either conservation area. The setting of both the RPCA and the BCA would be preserved. However, the preservation of these conservation areas does not offset the harm that would be caused to the character and appearance of the area.

Pedestrian flow

23. The appeal site is adjacent to Lancaster Gate Underground Station, and I observed that the area around the appeal site was busy with pedestrians, with a near-constant flow of people entering and exiting the station. There is a large bus stop area adjacent to Lancaster Gate Underground Station and I observed a substantial amount of people using this stop. Additionally, I observed pedestrians using the road to approach Hyde Park, opposite the appeal site. Although a 'snapshot' in time, there is nothing before me to suggest my observations were untypical.
24. My observations cast doubt on the appellant's highways analysis which describes the area as one of 'low flow'. Moreover, in applying the Pedestrian Comfort Guidance for London: Guidance Document (Transport for London, 2010) (PCG), the appellant has stated the character area as 'Residential'. 'Residential' is defined in the PCG as areas that are characterised by privately owned properties facing directly onto the street, which is not the case at the appeal site. Given the proximity of the Royal Parks, with Hyde Park being directly opposite the appeal site, I disagree with this assessment, and I consider that the character area is better suited to 'Tourist Attraction', where the PCG's area type description of high tourist activity applies.

25. According to figures provided by the appellant, the recommended minimum footway width (total width) is marginally greater than that recommended for 'Active Flow', but 0.7m below that recommended for 'High Flow', which indicates that the total width is not sufficient to enable comfortable movement in this busy area. The proposal, being sited with a 0.45m setback from the edge of the kerb, and taking up approximately 1.5 metres square of space, would be situated near a long line of street furniture, and would remove a needed passing and resting place for pedestrians, which is particularly required in this area of high footfall, thereby having an unacceptably adverse effect on pedestrian flow. Additionally, the proposal would create a further obstacle within the pavement which may result in pedestrians stepping out into the road which would be harmful to highway safety.

Other Matters

Effect on Heritage Assets

26. The proposal is within the setting of Hyde Park and Kensington Gardens, which are both Grade I listed Registered Park and Gardens. The Council commented that whilst the proposal would add clutter along the highway which is not typical within the setting of these historic park and gardens, the impact on the setting of these areas of open space would be limited due to the defined boundaries of both parks. From my observations I concur with this assessment. The significance of these designated heritage assets would not be harmed by the proposal.
27. The appeal site is near to Nos 61 to 64 Bayswater Road and Nos 3 to 5 Lancaster Terrace, which are Grade II listed buildings. It is clear from the Council's decision that it has no objection to the proposal in relation to these listed buildings. I have no evidence before me to reach a contrary view to the Council in this regard and find that the proposal would preserve the setting of these heritage assets.

Conclusion and Recommendation: Appeal A

28. Based on the above, and having regard to all matters raised, I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area and the safety and convenience of pedestrians using the pavement within the vicinity of the proposal. Accordingly, I recommend that the appeal should be dismissed.

Appeal B – Public Highway, Lancaster Terrace Junction Bayswater Road, London

Character and appearance

29. The proposal would be sited in a highly prominent position, on the corner of Lancaster Terrace and Bayswater Road. Lancaster Terrace is largely devoid of street furniture apart from lighting columns and low bollards providing a pleasing contrast to the more cluttered environment of Bayswater Road, within the vicinity of the appeal site. The introduction of a call box in this location would result in an intrusive and alien feature which would detract from the pleasant character and appearance of this road. Accordingly, the proposal would harm the character and appearance of the area.

30. The appeal site is situated outside the RPCA and the BCA, but due to its location at the cusp of both of those conservation areas, is within the setting of them. The significance of the RPCA derives in part from the beautiful and natural setting that is provided to the surrounding buildings. The significance of the BCA derives in part from the preponderance of architecturally grand buildings, including classically detailed porches with railings and balconies. The proposal would be small in scale in relation to the overall townscape and would not result in harm to the setting of either conservation area. The setting of both the RPCA and the BCA would be preserved. However, the preservation of these conservation areas does not offset the harm that would be caused to the character and appearance of the area.

Pedestrian flow

31. The proposal would be sited on a busy junction, where I observed a significant amount of footfall. However, this section of the footway is relatively wide and the proposal would be set apart from the nearby street lighting pole and the pedestrian crossing. Therefore, whilst the proposal would remove a passing place upon the pavement, pedestrians would be able to move freely along the unencumbered part of the pavement. There would be no material impact on pedestrian flows as a result of the siting of the proposal in this location.

Other Matters

Effect on Heritage Assets

32. The proposal is within the setting of Hyde Park and Kensington Gardens, which are both Grade I listed Registered Park and Gardens. The Council commented that whilst the proposal would add clutter along the highway which is not typical within the setting of these historic park and gardens, the impact on the setting of these areas of open space is limited due to the defined boundaries of both parks. From my observations I concur with this assessment. The significance of these designated heritage assets would not be harmed by the proposal.
33. The appeal site is near to Nos 61 to 64 Bayswater Road and Nos 3 to 5 Lancaster Terrace, which are Grade II listed buildings. The grand façade and projecting Corinthian porches of Nos 61 to 64 Bayswater Road can be appreciated in long views from the turning to Westbourne Street, and from the other side of Bayswater Road, opposite the appeal site. The bold and elegant architecture punctuates the street scene, adding a sense of opulence to the street. Nos 3 to 5 Lancaster Terrace and the appeal site are both in view from the junction of Bayswater Road and Lancaster Terrace. These properties add to the splendour of the street scene, in part through their finely detailed continuous bombé balcony and the prominently projecting Doric porches.
34. The proposed public call box is of a design which does not reflect the architectural qualities of these designated heritage assets, but instead would introduce a further structure on the footway which, when viewed in combination with the existing street furniture, would further restrict views of these important listed buildings. The new call box would be out of place with its context and harm to the setting of these heritage assets would result. Whilst such harm would be less than substantial to the significance of the heritage

assets, the Framework makes it clear that this needs to be weighed against the public benefits of the proposal.

35. In this regard I note that the call box would provide a service that the public could use including a number of telephone services, WiFi and small cell technology, and calls to ChildLine. However, such services could be provided elsewhere in locations where harm to the significance of heritage assets would not occur. Accordingly, considering the great weight that has been given to the conservation of the heritage assets, I find that the public benefits advanced do not outweigh the identified harm.

Conclusion and Recommendation: Appeal B

36. Based on the above, and having regard to all matters raised, I conclude that the siting and appearance of the proposal would be harmful to the character and appearance of the area and I recommend that the appeal should be dismissed.

Appeal C – Public Highway, Great Western Road Adjacent Derrycombe House, London

Character and appearance

37. The appeal site lies at the end of a long line of residential development, where there is a noticeable change in character to a more utilitarian scene, due to the flyover and the underground station. There is one existing telephone box adjacent to the site, but this is situated several metres away, against a wall, in a dilapidated condition, and is unlikely to be read in combination with the proposal.
38. The proposal respects the separation distances and sequencing of the fairly evenly spaced lamp posts and trees, and the vertically-inclined structure would not appear unduly out-of-place as its size and form would not be noticeably different from the existing street furniture, including the nearby bus shelter. The siting near to a large tree would soften its impact somewhat, and as it would be sited an adequate distance from existing street furniture, it would not add to clutter. Considering the large scale of the nearby buildings, including Derrycombe House, the appearance of the public call box, with its slim-line design, would not appear incongruous in the street scene. Accordingly, the proposal would not harm the character and appearance of the area.

Pedestrian flow

39. The proposed siting is on an area of the footway that is substantially wider than that immediately adjacent to Derrycombe House. The total footway width is in excess of the recommended minimum footway width (total width) for high pedestrian flow, as given in the PCG. Subsequent to construction, a large area of footway would remain, meaning that the footway would still be comfortable to use even during peak hours. Accordingly, the proposed structure would not have an unacceptable effect on pedestrian flow.

Other Matters

Crime and anti-social behaviour

40. The Council referred to community safety and security in their representations. However, the comments made by the Police as regards the potential for anti-social behaviour appear to be generic in nature and are not related to the particular individual siting of the proposal. There is no specific evidence or reason to consider that its presence would encourage crime or anti-social behaviour when taking into account that the design of the kiosk is not fully enclosed. There is natural surveillance of the site, including the flow of pedestrians. Additionally, policy and legislative options are likely to be available to tackle criminal and anti-social behaviour, and this matter is not a determining factor in this case.

Conditions

41. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
42. The Council's Officer Report referred to conditions relating to illumination, moving images, and intermittent lighting, but as this appeal solely relates to consent under Part 16, and not to advertisement consent, those conditions are not relevant. No further conditions have been suggested by the Council in the event that the appeal is allowed.

Conclusion and Recommendation: Appeal C

43. Based on the above, and having regard to all matters raised, I find that the siting and appearance of the proposal is acceptable and justifies the grant of prior approval for the public call box proposed in Appeal C. I recommend that the appeal should be allowed.

Appeal D - Public Highway, Adjacent 260 Harrow Road, London

Character and appearance

44. The appeal site is dominated both by the adjacent building, which is tall and of a modern design, and by the widely-spaced trees on this part of the road. The adjacent building, the petrol station, and the buildings opposite provide the area with a commercial character. Slightly beyond the appeal site is an existing telephone kiosk, but even so, this section of the road contains little street furniture and the addition of a public call box in this location would have a minimal impact in terms of adding to any clutter. The proposal would assimilate acceptably in the street scene, due to the commercial nature of the area and

the scale of the surrounding buildings. Accordingly, the proposal would not harm the character and appearance of the area.

Pedestrian flow

45. The parties agree that if the proposal were to be implemented, over 4m of clear footway would remain, which is over double that recommended by the Streetscape Guidance (Transport for London, Third Edition, 2017, Revision 1). It is also greater than the recommended total width of the footway for 'active flow' footfall, as described in the PCG. I do not have any evidence to indicate that levels of footfall would require a greater width, and whilst the structure would remove a 'passing place' there would still be ample space around the structure for pedestrians to wait or rest, and to use the pavement safely. Accordingly, the proposed structure would not have an unacceptable effect on pedestrian flow.

Other Matters

Crime and anti-social behaviour

46. The Council referred to community safety and security in their representations. However, the comments made by the Police as regards the potential for anti-social behaviour appear to be generic in nature and are not related to the particular individual siting of the proposal. There is no specific evidence or reason to consider that its presence would encourage crime or anti-social behaviour when taking into account that the design of the kiosk is not fully enclosed. There is natural surveillance of the site, including the flow of pedestrians. Additionally, policy and legislative options are likely to be available to tackle criminal and anti-social behaviour. This matter is not a determining factor in this case.

Conditions

47. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
48. The Council's Officer Report referred to conditions relating to illumination, moving images, and intermittent lighting, but as this appeal solely relates to consent under Part 16, and not to advertisement consent, those conditions are not relevant. No further conditions have been suggested by the Council in the event that the appeal is allowed.

Conclusion and Recommendation: Appeal D

49. Based on the above, and having regard to all matters raised, I find that the siting and appearance of the proposal is acceptable and justifies the grant of

prior approval for the public call box proposed in Appeal D. I recommend that the appeal should be allowed.

Appeal E - Public Highway, Edgware Road Adjacent Parsons House, London

Character and appearance

50. The appeal site is immediately adjacent to an existing telephone box and a street tree, with a bus stop and a litter bin situated close by. Its functional and modern design would be in keeping with the rows of shops nearby and the contemporarily designed building opposite and it would not unduly add to clutter within the street scene. Moreover, its siting and appearance would not contrast unduly with Parsons House, which is partially screened by trees. Accordingly, the proposal would not harm the character and appearance of the area.
51. The appeal site is situated outside the Maida Vale Conservation Area, but due to its location near the edge of the conservation area, is within its setting. The significance of the heritage asset derives in part from its leafy and attractive residential areas, with architecturally significant avenues. The proposal would have a neutral effect on the setting of the conservation area, due to its small footprint and relatively inconspicuous design. It would preserve the setting of this heritage asset.

Pedestrian flow

52. The appeal site is situated on a very wide area of pavement, which is in excess of the recommended minimum footway width (total width) for 'high flow', as given in the PCG. The proposal would be situated in front of an existing telephone box and adjacent to a tree. The tree has a large area of synthetic material around it, supporting its base which people are unlikely to walk on. As such, the usable walking space around the tree has been reduced somewhat. Nevertheless, due to the proposal being positioned immediately in front of an existing telephone kiosk, it would only marginally impact on the width of the pavement and would be unlikely to affect pedestrian flows in the locality, as pedestrians are already navigating around that existing telephone kiosk. As such, there would be little change to the existing situation, and accordingly the proposed structure would not have an unacceptable effect on pedestrian flow or safety.

Other Matters

Crime and anti-social behaviour

53. The Council referred to community safety and security in their representations. However, the comments made by the Police as regards the potential for anti-social behaviour appear to be generic in nature and are not related to the particular individual siting of the proposal. There is no specific evidence or reason to consider that its presence would encourage crime or anti-social behaviour when taking into account that the design of the kiosk is not fully enclosed. There is natural surveillance of the site, including the flow of pedestrians. Additionally, policy and legislative options are likely to be available to tackle criminal and anti-social behaviour. This matter is not a determining factor in this case.

Conditions

54. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
55. The Council's Officer Report referred to conditions relating to illumination, moving images, and intermittent lighting, but as this appeal solely relates to consent under Part 16, and not to advertisement consent, those conditions are not relevant. No further conditions have been suggested by the Council in the event that the appeal is allowed.

Conclusion and Recommendation: Appeal E

56. Based on the above, and having regard to all matters raised, I find that the siting and appearance of the proposal is acceptable and justifies the grant of prior approval for the public call box proposed in Appeal E. I recommend that the appeal should be allowed.

Appeal F - Public Highway, 383-393 Edgware Road, London

Character and appearance

57. The appeal site is situated adjacent to a petrol station, which has a large information and advertising sign. There are a number of items of nearby street furniture, including an existing telephone kiosk across the road and a litter bin and a lamp post immediately adjacent to the appeal site. However, considering the commercially-orientated nature of this part of the road, and that there is not a large proliferation of street furniture, the proposal would not 'tip the balance' into introducing unnecessary clutter. The proposal would not appear out-of-place in this commercial context and would be of a similar scale to existing street furniture. Accordingly, the proposal would not harm the character and appearance of the area.

Pedestrian flow

58. The parties disagree on the exact measurements, but it is clear that the footway is very close to the recommended minimum footway width (total width) for a site with active flows, as given in the PCG. Additionally, the footway clear zone is close to the preferred minimum width of 2m for the footway clear zone as given in the Streetscape Guidance (Transport for London, Third Edition, 2017, Revision 1).
59. This part of the pavement was heavily used by pedestrians and I observed 'desire lines' being used all around the space where the proposal would be situated. Considering the amount of street furniture that exists adjacent to the appeal site, including cycle racks, a bin, a lamp post, and a red post box, it is

considered that the proposal would unduly impede pedestrian flows, and potentially cause difficulties for those with mobility impairments, such as wheelchair users, particularly at peak times. The barrier that the proposal would create could lead to pedestrians stepping out into the road during busy periods which could result in harm to the safety of users of the highway. Accordingly, the proposed structure would have an unacceptable effect on pedestrian flow and safety.

60. The Council highlighted a concern in relation to the proximity of the proposal to the kerb line, regarding vehicular movement on the adjacent carriageway. However, the submitted plans show that the proposal would be separated from the kerb line by 0.45m, and therefore the proposal would not impact on vehicular movement. Moreover, given the setback of the structure and its distance from the junction I find that it would not impede the visibility of drivers using the junction. Harm to highway safety as a result of the use of this junction would be unlikely to occur.

Conclusion and Recommendation: Appeal F

61. I conclude that the proposal would have a harmful effect upon the safety and flow of pedestrians using the pavement within the vicinity of the site and accordingly the siting of the call box is not acceptable in this location. Based on the above, and having regard to all matters raised, I recommend that the appeal should be dismissed.

Appeal G - Public Highway, 420 Edgware Road, London

Character and appearance

62. The appeal site location contains a limited amount of street furniture, including a lamp post which is immediately adjacent to the appeal site, and two small posts nearby at the junction with Boscobel Street. A litter bin and a bus stop are within view, but these are situated a good distance away from the location of the new call box. In this context and considering the commercial character of this part of the street, the proposal would not appear out-of-place, but would assimilate acceptably into the street scene. Accordingly, the proposal would not harm the character and appearance of the area.

Pedestrian flow

63. The proposal meets both the recommended minimum footway width (total width) for 'high flow' of pedestrians as given in the PCG and the preferred minimum width of 2m for the footway clear zone as given in the Streetscape Guidance (Transport for London, Third Edition, 2017, Revision 1). The proposed siting close to the kerb and the lack of obstructions on the footway means that the new call box would be unlikely to impede pedestrian movement even during peak times. Accordingly, the proposed structure would not have an unacceptable effect on pedestrian flow or safety.

Other Matters

Highway safety

64. The Council highlighted a concern in relation to the proximity of the proposal to the kerb line, regarding vehicular movement on the adjacent carriageway.

However, the submitted plans show that the proposal would be separated from the kerb line by 0.45m, and therefore it would be unlikely to have an impact on vehicular movement in the carriageway.

65. The Council has referred to guidance relating to stopping sight distances (SSDs) given in Manual for Streets (Department for Transport, 2007). Whilst the Council has assessed the SSDs based on vehicles travelling at 30mph, due to this being a junction to a main road, it is unlikely that vehicles would be travelling at 30mph when within 3m of the junction. Vehicles would have slowed appreciably by this point, and whilst the proposal would add a further element of distraction near to the junction, the proposal is not of such a scale that visibility would be noticeably worsened, even taking into account that buses may be present in the bay at times.
66. The National Planning Policy Framework provides that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, and whilst the proposal would have a nominal effect on visibility due to its size and positioning, this would not amount to an unacceptable impact. Accordingly, the proposed structure would not have an unacceptable effect on highway safety.

Crime and anti-social behaviour

67. The Council referred to community safety and security in their representations. However, the comments made by the Police as regards the potential for anti-social behaviour appear to be generic in nature and are not related to the particular individual siting of the proposal. There is no specific evidence or reason to consider that its presence would encourage crime or anti-social behaviour when taking into account that the design of the kiosk is not fully enclosed. There is natural surveillance of the site, including the flow of pedestrians. Additionally, policy and legislative options are likely to be available to tackle criminal and anti-social behaviour. This issue is not a determining factor in this case.

Conditions

68. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
69. The Council's Officer Report referred to conditions relating to illumination, moving images, and intermittent lighting, but as this appeal solely relates to consent under Part 16, and not to advertisement consent, those conditions are not relevant. No further conditions have been suggested by the Council in the event that the appeal is allowed.

Conclusion and Recommendation: Appeal G

70. Based on the above, and having regard to all matters raised, I find that the siting and appearance of the proposal is acceptable and justifies the grant of prior approval for the public call box proposed in Appeal G. I recommend that the appeal should be allowed.

Appeal H - Public Highway, Edgware Road Adjacent Gilbert Sheldon House, London

Character and appearance

71. This part of Edgware Road is commercial in character, although Gilbert Sheldon House breaks the pattern of rows of shops. There are 2 kiosks in close proximity to this property but being sited against the wall they are largely unobtrusive in the street scene.
72. The proposal would be sited close to the kerb, near the entrance to Gilbert Sheldon House. In this context and having regard to the position of the nearby kiosks, I find that it would not create a sense of clutter within the street scape. Its siting and appearance would reflect the character and appearance of the area.

Pedestrian flow

73. The appeal site is adjacent to a bus stopping bay, although the bus stop itself is situated several metres away from the appeal site. In addition to the bus stop, the site is close to a pedestrian crossing and I observed the entrance to Gilbert Sheldon House being heavily used. Whilst the parties disagree on the overall footway width, and on the size of the footway clear zone, it is clear that at least 3m of clear footway would remain subsequent to the construction of the proposal, meeting the Streetscape Guidance (Transport for London, Third Edition, 2017, Revision 1) recommendations.
74. I consider that the remaining footway would be wide enough to allow a number of pedestrians to pass freely along it. The proposal would be unlikely to create congestion on the pavement because of its distance from points where pedestrians may congregate, including the nearby bus stop, the pedestrian crossing, and the junction with Church Street. Accordingly, the siting of the new call box would be unlikely to cause inconvenience or safety issues to pedestrians using the pavement within the vicinity of the appeal site. The presence of nearby street trees, bicycle stands and existing telephone kiosks do not lead me to conclude differently because these elements are all situated sufficiently far away from the appeal site to not result in a cumulatively adverse effect on pedestrian flows.

Other Matters

Crime and anti-social behaviour

75. The Council referred to community safety and security in their representations. However, the comments made by the Police as regards the potential for anti-social behaviour appear to be generic in nature and are not related to the particular individual siting of the proposal. There is no specific evidence or reason to consider that its presence would encourage crime or anti-social

behaviour when taking into account that the design of the kiosk is not fully enclosed. There is natural surveillance of the site, including the flow of pedestrians. Additionally, policy and legislative options are likely to be available to tackle criminal and anti-social behaviour. This matter is not a determining factor in this case.

Conditions

76. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
77. The Council's Officer Report referred to conditions relating to illumination, moving images, and intermittent lighting, but as this appeal solely relates to consent under Part 16, and not to advertisement consent, those conditions are not relevant. No further conditions have been suggested by the Council in the event that the appeal is allowed.

Conclusion and Recommendation: Appeal H

78. Based on the above, and having regard to all matters raised, I find that the siting and appearance of the proposal is acceptable and justifies the grant of prior approval for the public call box proposed in Appeal H. I recommend that the appeal should be allowed.

Appeal I - Public Highway, 4 Harrow Road, London

Character and appearance

79. The appeal site is dominated by the adjacent, rather imposing building, by the flyover, and by the highly trafficked road. The abundance of concrete-like materials and the prominence of the flyover provide a slight lack of a human scale, although the street trees soften this aspect somewhat. The proposal, with its modern and functional design, would not appear out-of-context, nor dominating, in the street scene. Whilst the proposal would be situated next to a lamp post and railings, it would be separated far enough from existing street furniture and landscaping such that it would not add visual clutter to the street scene. Accordingly, the proposal would not harm the character and appearance of the area.

Pedestrian flow

80. The appeal site is adjacent to a bus stop, and I observed a fairly substantial number of people walking near the area that would be covered by the proposal, upon exiting two buses, which is likely to be regular occurrence. Nevertheless, the placement of the proposal in line with a lamp post and the large amount of clear footway that would remain would mean that pedestrians would be able to

comfortably walk along the pavement even during peak times. Accordingly, the proposed structure would not have an unacceptable effect on pedestrian flow or safety.

Other Matters

Crime and anti-social behaviour

81. The Council referred to community safety and security in their representations. However, the comments made by the Police as regards the potential for anti-social behaviour appear to be generic in nature and are not related to the particular individual siting of the proposal. There is no specific evidence or reason to consider that its presence would encourage crime or anti-social behaviour when taking into account that the design of the kiosk is not fully enclosed. There is natural surveillance of the site, including the flow of pedestrians. Additionally, policy and legislative options are likely to be available to tackle criminal and anti-social behaviour, and therefore this matter is not a determining factor in this case.

Conditions

82. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
83. The Council's Officer Report referred to conditions relating to illumination, moving images, and intermittent lighting, but as this appeal solely relates to consent under Part 16, and not to advertisement consent, those conditions are not relevant. No further conditions have been suggested by the Council in the event that the appeal is allowed.

Conclusion and Recommendation: Appeal I

84. Based on the above, and having regard to all matters raised, I find that the siting and appearance of the proposal is acceptable and justifies the grant of prior approval for the public call box proposed in Appeal I. I recommend that the appeal should be allowed.

Alex O'Doherty

APPEAL PLANNING OFFICER

Inspector's Decisions

Appeal A

85. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Appeal B

86. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Appeal C

87. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Appeal D

88. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Appeal E

89. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Appeal F

90. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Appeal G

91. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Appeal H

92. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Appeal I

93. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

RC Kirby

INSPECTOR