
Appeal Decision

Site visits made on 5 September 2019 by Scott Britnell MSc FdA

Decision by R C Kirby BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2020

All Appeals

- The appeals are made under section 78 of the Town and Country Planning Act 1990 as amended 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 City of Westminster Council
 - The development proposed in each case is a public call box.
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Appeal A - Ref: APP/X5990/W/19/3225073

Public Highway, 359 Harrow Road, London, W9 3NA

Grid Reference Easting: 524840 and Grid Reference Northing: 182133

- The application Ref: 18/06627/TELCOM, dated 6 August 2018, was refused by notice dated 20 September 2018.
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Appeal B - Ref: APP/X5990/W/19/3225079

Public Highway, Maida Vale Adjacent Wellesley Court, London, W9 1RQ

Grid Reference Easting: 526084 and Grid Reference Northing: 182832

- The application Ref: 18/06626/TELCOM, dated 6 August 2018, was refused by notice dated 20 September 2018.
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Appeal C - Ref: APP/X5990/W/19/3225080

Public Highway, Marylebone Road Adjacent Burne House, London, NW1 5BZ

Grid Reference Easting: 527146 and Grid Reference Northing: 181738

- The application Ref: 18/06625/TELCOM, dated 6 August 2018, was refused by notice dated 20 September 2018.
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Appeal D - Ref: APP/X5990/W/19/3228452

Public Highway, 512 – 516 Harrow Road, London, W9 3QA

Grid Reference Easting: 524763 and Grid Reference Northing: 182203

- The application Ref: 18/08353/TELCOM, dated 1 October 2018, was refused by notice dated 19 November 2018.
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Appeal E - Ref: APP/X5990/W/19/3228456

Public Highway, Adjacent 110 Lisson Grove, London, NW1 6LR

Grid Reference Easting: 527276 and Grid Reference Northing: 182126

- The application Ref: 18/08391/TELCOM, dated 1 October 2018, was refused by notice dated 19 November 2019.
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Appeal F - Ref: APP/X5990/W/19/3228467

Public Highway, 478 Harrow Road, London, W9 3RU

Grid Reference Easting: 524896 and Grid Reference Northing: 182111

- The application Ref: 18/08403/TELCOM, dated 1 October 2018, was refused by notice dated 19 November 2019.
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Appeal G - Ref: APP/X5990/W/19/3228790

Public Highway, 59 Park Road, London, NW1 6XU

Grid Reference Easting: 527613 and Grid Reference Northing: 182381

- The application Ref: 18/08366/TELCOM, dated 1 October 2018, was refused by notice dated 20 November 2019.
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Appeal H - Ref: APP/X5990/W/19/3228884

Public Highway, Maida Vale, Adjacent Dibdin House, London, W9 1QE

Grid Reference Easting: 525745 and Grid Reference Northing: 183254

- The application Ref: 18/08394/TELCOM, dated 1 October 2018, was refused by notice dated 20 November 2019.
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Appeal I - Ref: APP/X5990/W/19/3228888

Public Highway, 2 Elgin Avenue, London, W9 3QR

Grid Reference Easting: 524894 and Grid Reference Northing: 182137

- The application Ref: 18/08402/TELCOM, dated 1 October 2018, was refused by notice dated 20 November 2019.
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Appeal J - Ref: APP/X5990/W/19/3228889

Public Highway, Harrow Road, Adjacent Finch Lodge, London, W9 3TB

Grid Reference Easting: 525402 and Grid Reference Northing: 181931

- The application Ref: 18/08405/TELCOM, dated 1 October 2018, was refused by notice dated 20 November 2019.
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Appeal K - Ref: APP/X5990/W/19/3231051

Public Highway, 19 Marylebone Road, London, NW1 5LT

Grid Reference Easting: 528240 and Grid Reference Northing: 182053

The application Ref: 18/09287/TELCOM, dated 30 October 2018, was refused by notice dated 17 December 2019.

Decisions

1. All of the appeals A – K are dismissed.

Appeals Procedure

2. The site visits were undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters and Background

3. The application forms relating to the appeals describe the proposals as a public call box. The appeal forms describe the proposals as "prior approval for siting and appearance: Installation of public call box". For ease of reference I shall refer to the proposals as a public call box.
4. The appeals relate to proposals by Maximus Networks Ltd for the installation of public call boxes at eleven locations in London. The proposed public call boxes are identical in Appeals A, B and C. The public call boxes in appeals D – K are also identical but differ slightly from those in the aforementioned appeals. Nonetheless, all public call boxes are very similar so in the interests of conciseness I have dealt with all appeal decisions in the same letter. However, each appeal has been determined on its merits, with reference to observations taken on site.
5. 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.
6. 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.
7. In addition to the GPDO establishing the principle of development, the National Planning Policy Framework ('the Framework') provides 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 determination of these appeals.
8. Appeals B, E, G and K relate to sites that are in close proximity to Conservation Areas. Appeals G, I and K relate to sites that are located close to Listed Buildings. National planning policy, as set out in the National Planning Policy Framework (the Framework) states that when considering the impact of a proposal on the significance of designated heritage assets, such as conservation areas and listed buildings that great weight should be given to the asset's conservation, and that significance can be harmed or lost through development within their setting.
9. I note that no indication has been provided as to the precise orientation of the public call boxes; that is, which way the front and rear sides would face.

Further, in respect of appeals D – K the drawings do not indicate which side of the public call box is the front and which is the rear. I have determined the appeals on the basis that the public call boxes will sit perpendicular to the adjacent roads as indicated on the proposed block plans.

10. During the course of the appeals the Westminster¹ judgment was issued. This considered the matter of dual purpose of advertisement display and telecommunications use and 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', and that a development falls outside the scope of Part 16, Class A if it is not 'for the purpose' of the operator's network. Both parties commented on this matter and I have taken these comments into account in my consideration of these appeals.

Main Issues

11. The main issues are:

- In each case: whether or not the proposal comprises development permitted by Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO);
- for appeals A, C, D, F, H and J: whether or not prior approval should be given in respect of the siting and appearance of the proposal, with particular regard to its effect on the character and appearance of the area and the safe and efficient operation of the highway.
- for appeals B, E, G, I and K: whether or not prior approval should be given in respect of the siting and appearance of the proposal, with particular regard to its effect on the character and appearance of the area, including the setting of a nearby conservation area, and in respect of appeals G, I and K nearby listed buildings, and the safe and efficient operation of the highway.

Reasons for the Recommendations

12. The design of the public call boxes for appeals A, B and C are identical. They would have an overall height of 3.121 metres with a width of 1.325 metres. The front would feature a 'visual area' of 1.7 metres by 1.1 metres with an upper display solar panel above and a solar kick panel below. There would be 4 LED lighting strips running the full height of the structures. On top would be a canopy consisting of solar panels projecting from each side. This would have an overall depth of 0.883 metres. The rear would house the phone handset and keypad along with USB charging points and name plate plaque [sic]. This would be set within an area of 0.7 metres by 0.35 metres and be surrounded by a 'full rear solar panel'. The public call boxes would be finished in gunmetal grey.
13. The design of the public call boxes for appeals D – K are also identical. They would have an overall height of 3.119 metres and a width of 1.325 metres. On one side would be an area referred to as a 'phone pocket', in which the

¹ Westminster CC v SSHCLG & New World Payphones Ltd [2019] EWHC 176 (Admin)

telecommunications apparatus would be located. This would be surrounded by a black laminated photovoltaic solar panel. On the reverse would be a 'non-illuminated display panel' measuring 1.7 metres by 1.1 metres, also referred to as a 'visual area'. Above and below this would be black laminated photovoltaic solar panels. There would also be LED lighting strips running the full height of the structures and on top a canopy consisting of photovoltaic solar roof panels projecting from each side. The canopy would have an overall depth of 0.976 metres. The public call box would be finished with side profiles in stainless steel textured black.

Whether permitted development

14. In each case, the Council considers that the primary purpose of the public call box would be for advertising. They consider that the telecommunications apparatus would be secondary to this purpose. While the proposed drawings indicate a visual area and non-illuminated display panel, there is nothing in the evidence before me to suggest that this would be for advertisement purposes. I acknowledge that under The Town and Country Planning (Control of Advertisement Regulations) (England) Regulations 2007, deemed consent would be granted, under certain conditions, for non-illuminated advertisements to be displayed on a glazed surface of a telephone kiosk. I note that the Council refer to this within an informative attached to each decision notice, "had prior approval been allowed, the display of advertisements on this kiosk may enjoy deemed consent..." However, in these appeals, only the construction of the public call boxes is before me. The appellant is not seeking advertisement consent.
15. Consequently, on the basis of the evidence before me 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.
16. The provisions under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) of the GPDO require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My consideration of the appeals has been made on the same basis.

Appeal A – 359 Harrow Road

17. The appeal site is located on an area of pavement in a busy shopping area. It is a short distance from the junction at which Harrow Road meets Great Western Road and Elgin Avenue, and where there are a number of traffic lights. At the time of my visit the street was busy with both vehicular and pedestrian traffic and I have seen nothing to suggest that this is untypical. A telephone kiosk of different design, tall street lighting columns, a bin and tree are all located near to where the proposed public call box would be sited. I also observed that the space immediately outside of the commercial premises in the vicinity of the appeal site is used for purposes associated with the businesses, such as the display of A-Boards and seating for customers. There are also a number of signs and canopies projecting from the front elevation of these buildings, which present a rather cluttered appearance.

18. Although the style of the public call box would be plain and simple, it would stand in excess of 3 metres and have a striking appearance, courtesy of its dark and minimalist finish. Due to its height, overall scale and appearance, combined with its prominent location towards the front of the pavement, the proposal would appear as an intrusive and incongruous feature in the streetscene. Further, together with the aforementioned elements, it would add to the existing cluttered appearance of the pavement and wider streetscene and would be harmful to the character and appearance of the area.
19. Given that the area closest to the front of the commercial properties is taken up with paraphernalia relating to the businesses, the usable space of the pavement is limited. The proposed public call box would reduce the width of the pavement further and would present an obstacle to pedestrians using this section of pavement. Its presence could, at busy times result in pedestrians stepping out into the carriageway to avoid congestion on the pavement, which would be likely to result in highway safety issues. The siting of the public call box would therefore hinder the safe and efficient operation of the highway by obstructing the free flow of pedestrian movement.

Appeal B – Maida Vale adjacent Wellesley Court

20. The appeal site is located on an area of pavement in front of the residential Wellesley Court development. It is a short distance from the junction with Abercorn Place and Elgin Avenue, where there are a number of traffic lights. A red pillar box, tall street lighting columns and a number of large trees are located near to where the proposed public call box would be sited. Although there is a bus shelter, bin, road sign and a long row of cycle racks on the opposite side of the road, the side where the proposed public call box would be located is largely devoid of street furniture.
21. The proposed tall structure in this location would introduce an alien and intrusive feature into the street scene, introducing street clutter where there is little at the moment. This would detract from the pleasant character and appearance of this part of the road.
22. The appeal site is immediately adjacent the St Johns Wood Conservation Area (SJWCA), which extends to the north, east and south-east, but does not include Wellesley Court². The part of the SJWCA closest to the appeal site is characterised by large residential properties of a traditional palette, in terms of building materials. It also has a pleasant leafy appearance, courtesy of the many large street trees.
23. Given the harm that I have identified above it follows that the proposal would erode the contribution that the appeal site makes to the setting of the conservation area. The proposed public call box would, due to its size and location, be highly visible in views towards and out of the SJWCA and, given its intrusive effect upon the street scene, would harm the setting of the conservation area. The harm to the significance of the setting of the SJWCA as a heritage asset would be localised and, in respect of the significance of the

² St John's Wood Conservation Area Map submitted by the Council.

heritage asset as a whole, less than substantial. The public benefits arising from the proposal in terms of accessibility to a public call box, and free WiFi, including for people with limited mobility, such as wheelchair users are noted. However, these matters attract limited weight because the benefits could be achieved elsewhere in a location where harm to the significance of heritage assets would not result. The public benefits advanced by the appellant do not outweigh the harm to the heritage asset identified in this case.

24. At the time of my visit vehicle traffic was relatively busy, although pedestrian movements were light. No evidence has been submitted to suggest that this is untypical. The site is located on a wide and straight section of pavement. Given the presence of the large trees along the pavement, and the relative location of the proposed public call box to these, it is unlikely that it would sit within a desire line in terms of pedestrian movement.
25. While the proposal would remove the opportunity for pavement users to use this space, for example to talk to each other outside of the main flow of pedestrian traffic or take a phone call, such an impact would not be significantly detrimental, given the context of the site and the opportunity for such activities to take place elsewhere along the stretch of pavement. Consequently, the siting and appearance of the proposal would not harm the safe and effective use of the highway.

Appeal C Marylebone Road adjacent Burne House

26. The appeal site is located on a pavement on Marylebone Road to the south of Burne House and to the north of the Marylebone flyover. A bus shelter, tall street lighting columns, a bin and trees are all located near to where the proposed public call box would be sited. There are also railings serving pedestrian subways within the vicinity of the appeal site and are visible from it.
27. Although the style of the public call box would be plain and simple, it would stand in excess of 3 metres and have a striking appearance, courtesy of its dark and minimalist finish. Due to its height, overall scale and appearance, combined with its prominent location towards the front of the pavement, the proposal would appear as an intrusive and incongruous feature in the area. Although the immediate surroundings of the appeal site may be considered to represent a poor urban environment, dominated as it is by the large Burne House on one side and the Marylebone Flyover on the other, I consider that the effect of the proposal would be to compound this. Further, together with the aforementioned elements, the proposal would result in an unacceptable cluttered appearance. The proposed public call box would therefore as a result of its siting and appearance harm the character and appearance of the area.
28. At the time of my visit the street was quiet in terms of vehicular and pedestrian traffic, although I note that Marylebone Road is a major road and that the appellant considers that there are active pedestrian flows in the locality.
29. The appeal site is located on a wide stretch of pavement. Whilst the siting of the public call box would remove the opportunity for pavement users to use this space, there would still be a large area of pavement remaining for people to stop and rest. The proposed siting of the call box would not impede

pedestrian flows to a harmful degree and in this regard harm to the safe and effective use of the highway would not result.

Appeal D 512 – 516 Harrow Road

30. The appeal site is located on an area of pavement in a busy shopping area, a short distance from the junction of Harrow Road and Ashmore Road. At the time of my visit the street was busy with both vehicular and pedestrian traffic. I have seen nothing to suggest that this is untypical. A number of street signs, tall street lighting columns, a bin and traffic lights are located near to where the proposed public call box would be sited.
31. Although the style of the public call box would be plain and simple, it would stand in excess of 3 metres tall and have a striking appearance, courtesy of its dark and minimalist finish. Due to its height, overall scale and appearance, combined with its prominent location towards the front of the pavement, the proposal would appear as an intrusive and incongruous feature in the area. Together with the aforementioned elements, it would materially worsen the existing cluttered appearance of the pavement and wider streetscene. Harm to the character and appearance of the area would occur as a result of its siting and appearance.
32. The new call box would be sited sufficiently far back from the carriageway to ensure that it would not conflict with vehicular movements within the adjoining carriageway. However, its siting would reduce the width of the pavement within the vicinity of the development. The area closest to the front of the commercial premises, outside of which the proposal would be located, slopes up towards the building. The usability of the pavement in this location is already comprised by this change in gradient, particularly for those with disabilities or with limited mobility. This would be further impinged upon by the proposed call box which would create an obstacle upon the pavement and could, at busy times result in pedestrians stepping out into the road to avoid others walking along the pavement.
33. The appeal site is also located in close proximity to the junction of Harrow Road and Ashmore Road to the west. There is a bus stop on the opposite side of the road to the appeal site. Any drivers manoeuvring around a bus in this location would cross onto the east bound carriageway. Currently, there is good visibility looking east when emerging from Ashmore Road, which enables drivers to take account of such vehicles. However, the proposed public call box, due to its size and location towards the front of the pavement, would reduce visibility for vehicle users exiting Ashmore Road, and therefore increase the risk of vehicular collisions at this point.
34. Given my findings I conclude that the siting and appearance of the proposal would have an unacceptable adverse effect on highway safety and pedestrian movement in this busy area.

Appeal E Adjacent 110 Lisson Grove

35. The appeal site is located on an area of pavement in front of a large residential development, a short distance from the junction of Lisson Grove and Broadley Terrace. A telephone kiosk of different design, a number of trees and road

- signage are located near to where the proposed public call box would be sited. There is also a pelican crossing on the opposite side of the Lisson Grove/Broadley Terrace junction. The site is in close proximity to the Lisson Grove Conservation Area (LGCA)³, which sits to the north, east and south, but does not include the buildings in front of which the proposal would be located.
36. Although the style of the public call box would be plain and simple, its height, scale and appearance, combined with its prominent location towards the front of the pavement would appear as an intrusive and incongruous feature in the street scene. Together with the aforementioned street furniture, it would also result in unacceptable visual cluttering of the pavement and wider street scene. The proposed siting and appearance would therefore harm the character and appearance of the area.
37. The contribution that the appeal site makes to the setting of the LGCA would be diminished as a result of the proposal and the presence of a tall structure in this location would be visible from the LGCA. The harm would be localised and, in respect of the significance of the heritage asset as a whole, less than substantial. The public benefits arising from the proposal in terms of accessibility to a public call box, including for people with limited mobility, such as wheelchair users are noted. However, such benefits would be so in a call box located elsewhere where harm to the significance of heritage assets would not result. In this regard, no substantive evidence has been provided to demonstrate that this is the only suitable location for this development. The public benefits of the proposal do not outweigh the harm to the significance of the conservation area as a heritage asset in this case.
38. At the time of my visit vehicle traffic was relatively busy, although pedestrian traffic was light. There is nothing in the submissions to suggest that this is untypical. However, there a number of trees on the pavement located approximately three quarters of the way back from the roadside. The proposed call box would narrow the width of the pavement and, in conjunction with the trees, would create a 'slalom' effect of obstructions for pavement users to navigate. Taking this into account, and mindful that the pavement may be used by people with mobility and visual impairments, I consider that the siting of the proposal would have an unacceptably adverse effect on pedestrian movement upon the pavement within the vicinity of the site.
39. The proposal would be located close to the junction with Broadley Terrace to the north. Given its size and location close to the roadside, it would be likely to obscure visibility for vehicle users exiting Broadley Terrace looking south. Given the volume of traffic using the road and the likely speed of vehicles in Lisson Grove, there would be high probability that conflict between road users would occur because vehicles exiting Broadley Terrace would not have a clear view of vehicles using Lisson Grove and vice versa. The siting and appearance of the proposal is not acceptable because of the harm to highway safety that would occur as a result.

³ Lisson Grove Conservation Area Map submitted by the Council.

Appeal F 478 Harrow Road

40. The appeal site is located on an area of pavement at the edge of a busy shopping area. It is in close proximity to the junction at which Harrow Road meets Great Western Road and Elgin Avenue, and where there are a number of traffic lights. Tall street lighting columns, traffic lights, a bin and tree are located near to where the proposed public call box would be sited. There are also railings at the junction with Elgin Avenue.
41. The public call box would be sited in a prominent position on Harrow Road. It would introduce a tall, incongruous structure into the streetscene, which when taken with the existing street furniture would result in an unduly cluttered appearance along this part of the road. The siting and appearance of the proposal would be harmful to the character and appearance of the area.
42. At the time of my visit the street was busy with both vehicular and pedestrian traffic, and I have seen nothing to suggest that this is untypical. The pavement in this location is relatively wide. However, the proposed call box would be located in close proximity to a pedestrian crossing. When approaching the crossing from the east, pavement users would be diverted around the structure, as opposed to taking a more direct and convenient path. In conjunction with the proximity of the nearby tree this would be likely to create a 'slalom' effect of obstructions making it more difficult for pavement users to navigate. The likely congestion that would result on the pavement could result in pedestrians stepping into the road which could result in conflict with vehicles using the highway. Consequently, the proposal would have an unacceptable adverse effect on pedestrian movement and have an adverse effect upon safety.

Appeal G 59 Park Road

43. The appeal site is located on an area of pavement close to the junction of Park Road and Rossmore Road. Tall street lighting columns, street signage, a bin, cycle stand and trees are all located near to where the proposed public call box would be sited. There is also a set of traffic lights nearby. The site is adjacent the Regent's Park Conservation Area (RPCA)⁴ and opposite a Grade II Listed terrace.
44. The street furniture in the locality, is with the exception of lighting columns and street/parking/delivery signs, low in height. The public call box would introduce a tall, wide structure into the area, in a prominent location which would be at odds with the existing street furniture. It would form an intrusive and alien feature in the streetscene. Moreover, it would add visual clutter into the area. The proposal would therefore be harmful to the character and appearance of this part of Park Road.
45. The boundary of the RPCA runs along Park Road and is characterised by Regents Park and a fine collection of buildings, including the listed terrace of properties opposite. The introduction of the appeal proposal in close proximity to the RPCA and the nearby listed buildings would, given my findings above be

⁴ Regent's Park Conservation Area Map submitted by the Council.

harmful to the setting of these heritage assets. The proposal would fail to sustain or enhance the significance of these heritage assets. Whilst the harm to the significance of the heritage assets would be localised, and less than substantial, the Framework makes it clear that this harm should be weighed against the public benefits of the proposal. The public access which would be provided to the facilities that the call box offers, including for people with limited mobility could be achieved elsewhere where harm to the significance of heritage assets would not result. No substantive evidence has been provided to demonstrate that this is the only suitable location for this development. Accordingly, I find that the public benefits advanced do not outweigh the less than substantial harm that would be caused to the significance of either the RPCA or nearby listed buildings.

46. At the time of my visit the street was busy with vehicular but not pedestrian traffic. Whilst this is a snapshot in time, I have no reason to doubt the appellant's findings that the pavement within the vicinity of the site has an active flow of pedestrians. The appellant submits that the footway width that would remain once the call box was erected would exceed that within the Pedestrian Comfort Guidance for London: Guidance Document (Transport for London 2010).
47. However, this width includes an area immediately to the front of the business adjoining the siting of the call box. The surfacing of this area was at the time of my visit given over to paraphernalia associated with the business, including a number of planted pots and an A-Board, thereby reducing the width of useable pavement in the locality. This area is also of different surface dressing to the rest of the pavement, consisting primarily of basement lights sunk into the ground with a stepped entrance which would be likely to impede the safe passage of pedestrians, particularly those with mobility disabilities, including those in wheelchairs.
48. The useable width of the pavement is therefore likely to be less than that set out by the appellant and taken with adjoining businesses which have established enclosed seating areas outside their properties, the presence of street trees and other street furniture and the physical obstacle that the proposal would create, a 'slalom' effect of obstructions would need to be navigated by pedestrians using this stretch of pavement. As a consequence, there would be a high probability that congestion would occur on the pavement at certain times of the day, which would be likely to result in pedestrians stepping out into the highway during busy times to avoid conflict with other users of the pavement. The siting and appearance of the proposal would therefore hinder the safe and efficient operation of the highway by obstructing pedestrian movement.
49. The appeal site is also located in close proximity to an access at what the Council refers to as a drive through florist shop. I observed at my visit that this is located in what appears to be a former garage. The Council are concerned that the proposed public call box would restrict visibility for vehicle users exiting these premises onto Park Road when looking north. In particular, there is a bus stop on the opposite side of the carriageway to the appeal site, and the Council are concerned that vehicles manoeuvring out around a bus, whether parked or not, may cross over into the nearby carriage. While I

concur, that visibility would be restricted, the carriageways in both directions along this stretch of Park Road effectively have two lanes, although this is reduced to one at the bus stop and on the nearside carriage for loading. Nevertheless, vehicles manoeuvring around a bus are unlikely to cross the centre line. Consequently, the proposal would not result in harm to the safe operation of the highway in terms of vehicular traffic.

Appeal H Maida Vale adjacent Dibdin House

50. The appeal site is located on an area of pavement on Maida Vale. Other than tall street lighting columns, a waste bin and a couple of low equipment cabins, this stretch of pavement comprises little street furniture. The new public call box would introduce a tall, wide piece of street furniture into the area which would be incongruous and dominant in the street scene. It would disrupt the uncluttered streetscene on this side of Maida Vale, to the detriment of the character and appearance of the area.
51. The site is located on a wide stretch of pavement, which at the time of my visit was not heavily in use. In its proposed location the call box would reduce the width of the pavement in this location but given the likely pedestrian flows along the pavement and the width that would remain I am satisfied that its siting would not cause an obstruction to the degree that harm to the safe and efficient flow of pedestrians would occur. Consequently, the proposal would not harm the safe and effective use of the pavement.

Appeal I 2 Elgin Avenue

52. The appeal site is located on an area of pavement on the edge of a busy shopping area, close to the junction with Harrow Road. Tall street lighting columns, road signs, traffic lights, railings and three Grade II Listed telephone kiosks are located near to where the proposed public call box would be located.
53. The appeal proposal, taken with the existing street furniture within close proximity to the appeal site, would increase the visual clutter within this part of Elgin Avenue. Moreover, the height and scale of the proposal would introduce a discordant feature into the streetscene, which would as a result of its prominent siting be harmful to the character and appearance of the area. It would obstruct views of the nearby listed telephone boxes from the east significantly detracting from the positive contribution that they have on the character of the area, as well as their own intrinsic importance. As a consequence, the proposal would be harmful to their setting within the public highway.
54. Whilst the harm to the setting of the listed telephone boxes would be localised and less than substantial, this harm needs to be weighed against the public benefits of the proposal, in accordance with the Framework. The provision of a call box in this location in this location which is accessible for all members of the public to use, is a public benefit in favour of the proposal. The appellant also states that calls from the handset would be free of charge and access to WiFi will be at no charge to the end user. However, such benefits could be achieved elsewhere where harm to the significance of heritage assets would be unlikely to occur. Accordingly, these benefits do not outweigh the harm to the significance of the heritage assets identified.

55. The call box would be sited on a wide area of pavement on Elgin Avenue. It would be sited close to the carriageway and over 3 metres of pavement width would remain once it had been sited. This width is greater than that which exists close to the telephone boxes nearby. I have no evidence before me to demonstrate that the pavement width nearby has resulted in highway safety concerns or adversely affected the flow of pedestrians along it. Given these matters and in the absence of substantive evidence to demonstrate otherwise, I find that the siting of the proposal would be unlikely to have an adverse effect upon either the capacity of the pavement to accommodate pedestrians or affect pedestrian desire lines to an unacceptable degree. Moreover, the proposal would be unlikely to affect the safety of other highway users.

Appeal J Harrow Road adjacent Finch Lodge

56. The appeal site is located on an area of pavement to the east of the residential development at Finch Lodge. To the south is a short bridge over the nearby canal. There are various commercial premises on the opposite side of the road, a marked contrast to the tree lined pavement upon which the new public call box would be sited. Street furniture along this side of Harrow Road is limited to a number of trees, landscaped areas, tall street lighting columns, road signs, and equipment cabins, located discreetly against existing boundary walls.
57. The proposal, by contrast would not be discreetly sited, being located within a prominent position, close to the carriageway, out of line with the existing street trees and landscaping. It would introduce a prominent, incongruous structure into the streetscene on this side of Harrow Road which would be harmful to the pleasant character and appearance of this area.
58. The proposal would be located 0.45 metres back from the edge of the roadside. I observed at my visit that the planting areas and trees along this stretch of pavement, effectively divide it into two sections. By being out of line with these features, the proposal would introduce an obstacle into the part of the pavement closest to the carriageway. However, given the overall width of the pavement of this location, whilst it may cause inconvenience to pedestrians using the pavement, I am satisfied that it would be unlikely to result in harm to highway safety or the efficient use of the pavement in this location. The proposal would not result in detriment to the safe and efficient operation of the highway.

Appeal K 19 Marylebone Road

59. Marylebone Road within the vicinity of the appeal site is tree lined with limited street furniture or visual clutter. Whilst there are a number of bollards and streetlights nearby these are slender structures. By contrast the appeal proposal would introduce a bulky structure into the streetscape which would be incongruous with the features within the pavement environment. The proposal would introduce harmful visual clutter into this part of the road which would be harmful to its pleasant character and appearance.
60. The site is immediately adjacent to the Regent's Park Conservation Area (RPCA) and is within the setting of the Grade I Listed St Marylebone Parish Church, with the site affording relatively open views of this historic building. The introduction of the appeal proposal in close proximity to the RPCA and the

nearby listed building would, given my findings above be harmful to the setting of these heritage assets. The harm would be localised and, in respect of the significance of the heritage assets as a whole, less than substantial. The public benefits arising from the proposal in terms of accessibility to a public call box, including for people with limited mobility, such as wheelchair users are noted. However, no substantive evidence has been provided to demonstrate that this is the only suitable location for this development. It is likely that such benefits could be achieved elsewhere where harm to the significance of heritage assets would not result. Accordingly, I find that the public benefits advanced do not outweigh the less than substantial harm that would be caused to the nearby RCPA or listed building.

61. At the time of my visit the street was busy with vehicular traffic. Pedestrian movements nearby were low and this accords with the appellant's findings. The appeal site is located on a wide stretch of pavement. In its proposed location, the call box would not obstruct the free flow of pedestrian movement. While it would remove the opportunity for pavement users to use this space, for example to talk to each other outside of the main flow of pedestrian traffic or take a phone call, such an impact would not be significantly detrimental, given the context of the site and the opportunity for such activities to take place elsewhere upon the pavement.
62. However, due to its size and location, the proposed public call box would restrict visibility for drivers of vehicles exiting Nottingham Place to the west. There is a bus lane along this section of the road and drivers exiting from Nottingham Place would have a reduced visibility of vehicles and cyclists in the bus lane, and vice versa. Given this, there is a likelihood of conflict with vehicles existing the junction and other road users. The siting and appearance of the proposal is not therefore acceptable because of the harm that would result to highway safety.

Other Matters

63. In relation to all appeals, my attention has been drawn to two other appeal decisions, these relate to sites at 105 Tottenham Court Road London (dated 2012)⁵ and 348 Harrow Road, London (dated 2013)⁶. I do not have the full details of those cases before me and so cannot determine whether the site specific circumstances of those appeals are directly comparable to the proposals before me. In addition, while noting that the appeal at 348 Harrow Road appears to be in close proximity to Appeals A, D, F, I and J, I am mindful that each case will have its own context and setting. Further, each case must be considered on its own merits and, as such, the other appeal decisions referred to are not matters which justify the proposals before me.

⁵ APP/X5210/A/12/2178982

⁶ APP/X5990/A/12/2187244

Conclusions and Recommendations

Appeal A

64. I conclude that for the reasons set out above that the siting and appearance of the proposed public call box would harm the character and appearance of the area. It would also be detrimental to the safe and efficient operation of the highway. I recommend that the appeal should be dismissed.

Appeal B

65. In conclusion, the siting and appearance of the proposed public call box would harm the character and appearance of the area and the setting of the adjacent SJWCA. The lack of harm to pedestrian movement in this case is a neutral benefit which does not outweigh the harm identified. I recommend that the appeal should be dismissed.

Appeal C

66. In conclusion, the siting and appearance of the proposed call box would harm the character and appearance of the area. The lack of harm to pedestrian movement does not outweigh the harm identified and I recommend that the appeal should be dismissed.

Appeal D

67. The siting and appearance of the proposed call box would harm the character and appearance of the area. It would also be detrimental to the safe and efficient operation of the highway. I recommend that the appeal should be dismissed.

Appeal E

68. In conclusion, the siting and appearance of the proposed call box would harm the character and appearance of the area and the setting of the LGCA. It would also be detrimental to the safe and efficient operation of the highway. Accordingly, I recommend that the appeal should be dismissed.

Appeal F

69. I conclude that the siting and appearance of the proposed public call box would harm the character and appearance of the area and would be detrimental to the safe and efficient operation of the highway. Accordingly, I recommend that the appeal should be dismissed.

Appeal G

70. In conclusion, the siting and appearance of the proposed public call box would harm the character and appearance of the area, including the setting of the RPCA and the Grade II listed buildings opposite. It would also be detrimental to pedestrian movement. While it would not be harmful to the safe and efficient operation of the highway in terms of vehicular traffic, this is a neutral factor that does not outweigh the harm identified. Accordingly, I recommend that the appeal should be dismissed.

Appeal H

71. I conclude that the siting and appearance of the proposal would have an unacceptable harmful effect on the character and appearance of the area. The lack of harm to the safe and efficient operation of the highway is a neutral factor in this case. It does not outweigh the identified harm. I recommend that the appeal should be dismissed.

Appeal I

72. I conclude that the siting and appearance of the proposal would have an unacceptable effect on the character and appearance of the area, and the setting of the three Grade II listed telephone kiosks nearby. Although the proposed public call box would have no negative effects on the safe and efficient operation of the highway, this is a neutral benefit and does not outweigh the harm identified. I recommend that the appeal should be dismissed.

Appeal J

73. In conclusion, the siting and appearance of the proposal would have an unacceptable effect on the character and appearance of the area for the reasons set out above. The absence of harm to highway safety does not outweigh my concern in this regard. I recommend that the appeal should be dismissed.

Appeal K

74. I conclude, the siting and appearance of the proposal would have an unacceptable effect on the character and appearance of the area, including the setting of the RPCA and the nearby Grade I listed church. It would also have an unacceptable effect on highway safety. The lack of harm to pedestrian movement in this case is a neutral benefit which does not outweigh the harm identified. I recommend that the appeal should be dismissed.

Scott Britnell

APPEAL PLANNING OFFICER

Inspector's Decisions

75. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis all of the appeals are dismissed.

RC Kirby

INSPECTOR