



Appeal Decisions

Site visit made on 2 September 2019 by Ben Phillips Bsc Msc

Decisions by R C Kirby BA(Hons) DipTP MRTPI

An appointed by the Secretary of State for Communities and Local Government

Decision date: 27 April 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 Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeals are made by Maximus Networks Ltd against the decision of the City of Westminster Council.
- The development proposed in each case is a call box.

Appeal A Ref: APP/X5990/W/18/3211396

Marylebone Road corner Devonshire Place, London, W1G 6BW

Application Ref: 18/00926/TELECOM dated 31 January 2018 was refused by notice dated 20 March 2018.

Appeal B Ref: APP/X5990/W/18/3211397

66 Seymour Street, London, W1H 5BT

Application Ref: 18/00927/TELECOM dated 31 January 2018 was refused by notice dated 21 March 2018.

Appeal C Ref: APP/X5990/W/18/3211595

43 Upper Berkeley Street, London, W1H 5QL

Application Ref: 18/00933/TELECOM dated 31 January 2018 was refused by notice dated 21 March 2018.

Appeal D Ref: APP/X5990/W/18/3211636

130 Shaftesbury Avenue, London, W1D 5EU

Application Ref: 18/00871/TELECOM dated 1 February 2018 was refused by notice dated 21 March 2018.

Appeal E Ref: APP/X5990/W/18/3211673

Adj. 2-8 Piccadilly, London, W1J 0DD

Application Ref: 18/00901/TELECOM dated 1 February 2018 was refused by notice dated 21 March 2018.

Appeal F Ref: APP/X5990/W/18/3211681

183 Oxford Street, London, W1D 2JT

Application Ref: 18/00898/TELECOM dated 1 February 2018 was refused by notice dated 21 March 2018.

Appeal G Ref: APP/X5990/W/18/3211686

167 Oxford Street, London, W1D 2JN

Application Ref: 18/00897/TELECOM dated 1 February 2018 was refused by notice dated 21 March 2018.

Appeal H Ref: APP/X5990/W/18/3211688

129-131 Oxford Street, London, W1D 2HU

Application Ref: 18/00896/TELECOM dated 1 February 2018 was refused by notice dated 21 March 2018.

Appeal I Ref: APP/X5990/W/18/3211689

78 Oxford Street, London, W1D 1BS

Application Ref: 18/00869/TELECOM dated 31 January 2018 was refused by notice dated 21 March 2018.

Appeal J Ref: APP/X5990/W/18/3211690

136 Oxford Street, London, W1D 1LU

Application Ref: 18/00870/TELECOM dated 31 January 2018 was refused by notice dated 21 March 2018.

Decisions

1. All of the appeals are dismissed.

Appeal Procedure

2. 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

3. This decision letter relates to 10 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. Whilst each appeal relates to a different site, since each of the applications raises similar issues, they are dealt with in a single decision letter.
4. On 25 May 2019, the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 came into force, amending the GPDO. This amendment removes 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 at Part 5 of the 2019 Regulations 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 the ten appeals before me.

5. The Council has 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.
6. Whilst Section 66 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.
7. Whilst the need for the development has been raised, the National Planning Policy 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.
8. With regards to Appeals F, G, H, I and J the Council has included a refusal reason based on the proposal being premature in the light of future proposals for improvement of the pedestrian environment in Oxford Street. The details of this scheme are not before me, nor is a timetable for adoption. Accordingly, I have based my assessment of the proposals on what I observed on my site visit.
9. With regards to Appeal E, the address above is taken from the Council's decision notice and part E of the appeal form, for clarity.

Main Issues

10. 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 proposal on:
 - the character and appearance of the area, including the effect upon designated heritage assets, and
 - pedestrian flow and safety.

Reasons for the Recommendations

11. The appeals describe the call box as a light and discrete structure which would be approximately 2.5 metres in height and 1.3 metres in width. It would have 3 sides, 2 of which would be narrow in width and transparent. The front of the call box would be open. It would include a telephone for members of the public to use. The rear side of the call box would be enclosed.

Whether permitted development

12. 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.

13. 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.
14. Although the appellant has indicated that commercial advertising subsidises both the installation of the network and its ongoing maintenance, the submitted drawings show no form of advertisement material. Although the rear of the equipment opens, it is understood that this is to allow maintenance of the equipment. Given the above I consider that the form and design of the proposed telecommunications apparatus is driven by its proposed functionality as a public call box, as opposed to another function. 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.
15. 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

Character and Appearance

16. The appeal site is located within a busy mixed area and the new call box would be sited next to Marylebone Road outside the current 'London Clinic' building. Marylebone Road is a large busy arterial route fronted by substantial buildings of varying use and of a number of storeys in height. The quality of the buildings within the street scene varies and there are a mix of traditional historic buildings, such as the Royal Academy of Music building, and more modern buildings directly opposite.
17. From the information before me, it is unclear as to whether the site is located within the boundary of the Regents Park Conservation Area (CA) as asserted by the Council in its decision notice. However, it is clear that even if it is just outside, and the map before me shows the boundary running down the centre of Marylebone Road, the appeal site is within its setting.
18. The pavement within the vicinity of the appeal site has existing street furniture including bicycle racks, communication cabinet and road signs, located in a line close to the kerb line. This furniture is largely of a slim design and is not intrusive in the streetscene. Whilst of a simple, modern design, the new kiosk would be significantly bulkier than nearby street furniture and given its scale it

would appear as a prominent, intrusive feature on this stretch of pavement. Even located outside a substantial building, its strikingly modern design would appear incongruous and would detract from the character and appearance of the traditional setting and street scene.

19. However, the small scale of the proposal when compared to the overall townscape would not result in a difference to the way the wider CA is experienced, and in the event that it is outside of the CA, harm to its setting would not occur. The significance of the designated heritage asset would be preserved.

Pedestrian Flow/Safety

20. The appeal site is located along a busy pedestrian route, close to the corner of Marylebone Road and Devonshire Place, both of which at the time of my site visit, had a steady flow of pedestrians.
21. Given the proximity to the junction and a pedestrian crossing point, it is likely that at certain times of the day that a number of pedestrians would be waiting to cross the road, close to the new call box. Although the pavement width in this location would exceed 2 metres, it is likely that the siting of the call box would have a funnelling effect with the adjacent building which would be likely to cause congestion within the vicinity of the crossing point. Although this would only be likely to occur at peak times when the pavement was busy with pedestrians, it could result in pedestrians stepping out into the road to avoid congestion on the pavement, into the flow of vehicles using it which would be harmful to highway safety.

Conclusion and Recommendation

22. For the above reasons I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area and the flow and safety of pedestrians. In reaching this conclusion I have had regard to a number of appeal decisions that the appellant has drawn to my attention. However, the circumstances of those cases, including the sites to which they relate are not comparable to the circumstances before me. The examples do not provide justification for harmful development.
23. For the above reasons, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

Appeal B

Character and Appearance

24. The appeal site is located in a busy commercial and residential area, outside 66 Seymour Street on the corner with Edgware Road, within the Portman Estate CA. Edgware Road is a busy highway, as is Seymour Street. No 66, sited on the corner, is a tall, attractive, modern building which serves as a prominent mixed-use structure, taller in height than its traditional neighbouring attached property. This area of Seymour Street is attractive and pleasant, with a varying pavement width.
25. The Portman Estate CA is designated because of its historic and homogenous character, derived from the harmonious rhythm generated by coherent blocks

of historic terraced buildings. Seymour Street is largely devoid of street furniture other than traffic signs and lighting columns within the vicinity of the appeal site. It has a pleasant appearance and the streetscene is uncluttered.

26. The introduction of a modern structure into this location would significantly detract from its attractive character and appearance and would appear as an incongruous, prominent feature. The stark modern design of the proposal, whilst located outside a modern frontage, would not be in keeping with the historic nature of the Portman Estate CA and its traditional architecture. Accordingly, the proposal would fail to preserve or enhance the character or appearance of this designated heritage asset.
27. The harm that would be caused to the significance of the CA as a designated heritage asset would be less than substantial and therefore needs to be weighed against the public benefits of the proposal. I acknowledge that the equipment would be available for members of the public to use, however such a benefit could be achieved if the call box was sited elsewhere in a location where harm to the significance of heritage assets would not occur. Accordingly, I find that the public benefit of the scheme does not outweigh the identified harm identified.

Pedestrian Flow/Safety

28. The appeal site is located directly outside an entrance to No 66 Seymour Street, in addition to being sited close to the narrowing of the pavement outside the cocktail bar directly next door. This is then a pinch point for pedestrians, and whilst the pedestrian footway directly next to the kiosk would remain larger than 2 metres, pedestrian flow would be compromised from all directions as a result of the siting of the call box in this location, particularly at busy times. The siting and appearance of the call box could result in pedestrians stepping out into the road to avoid conflict with other pedestrians using the pavement which would be harmful to highway safety.

Conclusion and Recommendation

29. For the above reasons I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area, to a designated heritage asset and the flow and safety of pedestrians. In reaching this conclusion I have had regard to a number of appeal decisions that the appellant has drawn to my attention. However, the circumstances of those cases, including the sites to which they relate are not comparable to the circumstances before me. The examples do not provide justification for harmful development.
30. For the above reasons, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

Appeal C

Character and Appearance

31. The appeal site is located in a busy commercial and residential area, outside No 43 Upper Berkeley Street, a prominent corner mixed use building mostly facing Edgware Road, with a restaurant on the ground floor facing Upper Berkeley

Street. Whilst this part of the street scene reflects the more modern commercial Edgware Road, Upper Berkeley Street is more traditional and historic in character.

32. The existing pavement is largely free of street furniture and is pleasant and attractive. The proposed call box would be sited close to the corner with Edgware Road, outside of, but adjoining the boundary with the Portman Estate CA. Given its scale and modern appearance the new call box would appear prominent, incongruous and visually obtrusive in the Upper Berkeley streetscene and would significantly detract from its existing uncluttered appearance. I find that the introduction of the proposal in this location would be harmful to the character and appearance of the area.
33. However, the small scale of the proposal when compared to the overall townscape would not result in harm to the setting of the adjoining conservation area, and it would be preserved.

Pedestrian Flow/Safety

34. Both Edgware Road and Upper Berkeley Street were busy with pedestrians at the time of my visit. The pavement within the vicinity of the appeal site comprises different surfacing, the area closest to the shop front being suggested as a private forecourt by the Council, albeit this matter is not substantiated.
35. There is no separation of the area outside of the shopfront to prevent pedestrians walking on it, and I have no information before me to suggest that this is likely to change. It therefore seems reasonable that pedestrians would continue to walk along this area once the call box was in place. Given the width between the building and new structure that would remain I am satisfied that there would be no harmful effect as a result of the proposal on either pedestrian movement or safety.

Conclusion and Recommendation

36. For the above reasons I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area. In reaching this conclusion I have had regard to a number of appeal decisions that the appellant has drawn to my attention. However, the circumstances of those cases, including the sites to which they relate are not comparable to the circumstances before me. The examples do not provide justification for harmful development.
37. For the above reasons, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

Appeal D

Character and Appearance

38. The proposed call box would be situated in what is primarily a busy commercial area, close to a light controlled pedestrian crossing and pedestrian island. On the opposite side of Shaftesbury Avenue is the Soho CA and the Palace Theatre, with the Welsh Presbyterian Church Manse located to the east.

39. The new call box would be located outside a substantial tall modern brick building, close to the kerb line, between existing street trees and by a waste bin. Its scale and form would be significantly larger than nearby street furniture and as a consequence it would appear as an intrusive, alien feature within the street scene, which would detract from the character and appearance of the area.
40. The appeal site is close to the boundary with, and within the setting of the Soho CA which has an extremely dense, urban colourful and vibrant character. I am however satisfied that the small scale of the proposal when compared to the overall townscape would not result in harm to the setting of the conservation area, and it would be preserved.
41. The Palace Theatre is a Grade II* listed building, constructed of red brick with four main storeys. The building has three main bays to the front elevation facing Charing Cross Road and octagonal corbelled corner towers with domes. Further along Shaftesbury Avenue to the east is the Grade II Welsh Presbyterian Church Manse, a four storey (plus attic) 19th Century red brick building with gothic and Romanesque details.
42. The proposed call box would be small in scale in comparison to The Palace Theatre and being sited on the opposite side of the road to it would be unlikely to alter the surroundings in which this heritage asset is experienced to a harmful degree. Moreover, the separation distance between the proposal and the Welsh Presbyterian Church Manse would ensure that the new call box would not affect the surroundings within which this building is experienced.
43. Consequently, given my findings, I conclude that the proposal would have a neutral effect on nearby heritage assets and their setting would be preserved. The preservation of these heritage assets does not however offset the harm that would be caused to the character and appearance of the area.

Pedestrian Flow/Safety

44. Shaftesbury Avenue experiences a high level of pedestrian flow. The proposed call box would be wider and more obstructive than existing street furniture in the locality, jutting out into the likely desire lines of pedestrians using the pavement.
45. Although the pavement width that would remain would exceed 2, the proposal would have the effect of funnelling pedestrians closer to the buildings adjacent. This may, at busy times result in pedestrians stepping out in the carriageway to avoid congestion at the pinch point that the proposal would cause. This would be likely to affect the safety of highway users and have an unacceptably adverse effect on pedestrian movement along this stretch of road.

Conclusion and Recommendation

46. For the above reasons I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area and the flow and safety of pedestrians. In reaching this conclusion I have had regard to a number of appeal decisions that the appellant has drawn to my attention. However, the circumstances of those cases, including the sites to which they

relate are not comparable to the circumstances before me. The examples do not provide justification for harmful development.

47. For the above reasons, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

Appeal E

Character and Appearance

48. The appeal site is located on Piccadilly close to Piccadilly Circus, directly outside Nos 2-8 Piccadilly, a substantial grade II listed, corner landmark building. The appeal site is also located within the Regent Street CA, and close to the boundary of St James's CA which runs on the other side of the road. No information is provided on the designation of these CA's however the historic architectural quality of both is evident.
49. This is an area of historic importance emphasised by the landmark architecture and significant buildings in every direction. The pavement at this point is relatively uncluttered with only a directional signpost, another signpost and a bin. The addition of a modern, large call box would appear out of keeping and incongruous in this context and would detrimentally affect views in both directions along Piccadilly including towards Piccadilly Circus, in addition to having a negative impact on the way both Regent Street CA and St James's CAs are experienced. Harm to the character and appearance of the area would result, as well as harm being caused to the significance of both conservation areas.
50. Nos 2-8 is an early 20th century building forming part of the Quadrant which comprises offices, shops and stores. The new call box would be located within the pavement close to the elevation of the building. Its tall, modern design would not respect the significance of this designated heritage asset and it would significantly affect the surroundings on this part of Piccadilly and Piccadilly Circus within which the listed building is experienced. As a consequence, the setting of this listed building would be harmed.
51. Given the scale of the proposal in relation to designated heritage assets, taken individually and cumulatively, I consider that the harm that would be caused to their significance would be less than substantial, albeit great weight should be given to this in accordance with paragraph 193 of the Framework. There is some public benefit associated with the provision of a public call box and its internet enabled services, in addition to being accessible to wheelchair users. However given the limited benefit associated with one call box in this respect, and the lack of any information as to why similar benefits could not be achieved by siting the apparatus in a more sensitive location without causing harm to designated heritage assets, I can only give this limited weight which does not outweigh the harm identified.

Pedestrian Flow/Safety

52. The pavement within the vicinity of the appeal site was very busy with pedestrians at the time of my visit. Given the proximity to Piccadilly Circus and the underground station, it is likely that pedestrian footfall in the area is high throughout the day and into the evening.

53. The proposal would narrow the pavement in this location by approximately 2 metres. Although more than 3 metres of pavement width would remain within the vicinity of the new call box, the solid obstacle that it would create within the pavement would be likely to restrict pedestrian movement along it, and may result in pedestrians stepping out into the road to avoid the pinch point that the structure would create and likely congestion that may occur. This would be harmful to pedestrian flows and highway safety.

Conclusion and Recommendation

54. For the above reasons I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area, the significance of designated heritage assets and the flow and safety of pedestrians. In reaching this conclusion I have had regard to a number of appeal decisions that the appellant has drawn to my attention. However, the circumstances of those cases, including the sites to which they relate are not comparable to the circumstances before me. The examples do not provide justification for harmful development.
55. For the above reasons, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

Appeal F

Character and Appearance

56. The appeal site is located on Oxford Street, famous for its commercial character and extremely high pedestrian and traffic flow, as was evident on my site visit. The site is located just outside the East Marylebone CA whose boundary runs on the opposite side of Oxford Street at this point. There is no information before me in terms of the designation of the CA, however it is evident that it has a varied character with a mix of commercial and residential streets but there can be no doubt that the busy commercial thoroughfare of Oxford Street contributes significantly to its character. The quality of buildings within the street scene varies, with some modern additions and some historic buildings, with a mix of modern and more traditional shop frontages.
57. The pavement at this point is relatively uncluttered, with only a bin and lampposts in the vicinity. The proposed call box, given its scale and design, would introduce a dominant, intrusive feature which would draw the eye and detract from the wide range of commercial buildings. It would introduce street clutter in this location which would be harmful to the character and appearance of the area.
58. Given the proximity to the East Marylebone CA, I find that the appeal site is within its setting. However, the small scale of the proposal when compared to the overall townscape would not result in harm to the setting of the conservation area, and it would be preserved.
59. However, Nos 164-182 Oxford Street which is grade II listed are located opposite the appeal site. The significance of this four/five storey designated heritage asset relates primarily to the age and architectural quality of this former department store. The appeal site is within the commercial setting of this listed building, as well as that of Nos 169-173 Oxford Street, the Pantheon

building, which is grade II listed also, with a distinctive back granite frontage, located on the same side of the street as the appeal site. I consider that the scale and design of the proposed kiosk would be at odds with the historic architectural quality of these buildings and would have a harmful effect on the surroundings within which they are experienced.

60. Given its scale in relation to the buildings as a whole, the harm that would be caused by the new call box to the significance of these designated heritage assets would be less than substantial, however I attach great weight to this matter. I find that the public benefits of the equipment providing accessible services to the community would not outweigh the harm identified because the same benefit could likely be achieved elsewhere in a location where harm to heritage assets would not occur.

Pedestrian Flow/Safety

61. The highly commercial natured Oxford Street experiences high pedestrian flows and the width of the pavement reflects this. The proposal would narrow the pavement by approximately 1.5 metres and would be likely to impede pedestrian movement along this stretch of pavement creating a solid obstacle, where there is none at present. This would be likely to result in pedestrians stepping out into the carriageway to avoid congestion upon the pavement within the vicinity of the new call box, which would be harmful to highway safety as well as pedestrian movement.

Conclusion and Recommendation

62. For the above reasons I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area, the significance of designated heritage assets and the flow and safety of pedestrians. In reaching this conclusion I have had regard to a number of appeal decisions that the appellant has drawn to my attention. However, the circumstances of those cases, including the sites to which they relate are not comparable to the circumstances before me. The examples do not provide justification for harmful development.
63. For the above reasons, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

Appeal G

Character and Appearance

64. The appeal site is located on Oxford Street, famous for its commercial character and extremely high pedestrian and traffic flow, as was evident on my site visit. The site is located just outside the East Marylebone CA whose boundary runs on the opposite side of Oxford Street at this point. There is no information before me in terms of the designation of the CA, however it is evident that it has a varied character with a mix of commercial and residential streets but there can be no doubt that the busy commercial thoroughfare of Oxford Street contributes significantly to its character. The quality of buildings within the street scene varies, with some modern additions and some historic buildings with a mix of modern and more traditional shop frontages.

65. The proposed kiosk would be sited outside a large modern commercial building close to the corner of Oxford Street and Poland Street, between street trees. The width, height and design of the call box would result in a dominant, intrusive feature within the street scene which would be significantly at odds with existing street furniture and trees. As a consequence, it would result in street clutter within this stretch of Oxford Street which would be harmful to the character and appearance of the area.
66. Given the proximity to the East Marylebone CA, I find that the appeal site is within its setting. However, the small scale of the proposal when compared to the overall townscape would not result in harm to the setting of the conservation area, and it would be preserved.
67. Directly opposite the appeal site is the Grade II* listed 156-162 Oxford Street, a prominent early 20th Century corner office block. The significance of this building lies in its early example of steel framed construction in addition to its architectural detailing and quality. Nearby to the appeal site on the same side of the road is the grade II listed Pantheon building at 169-173 Oxford Street. The significance of this heritage asset includes its distinctive back granite frontage.
68. The proposed call box would be located within the setting of both of these buildings and it would change the surroundings within which these heritage assets are experienced, in a negative way. Whilst the harm that would be caused to the significance of these designated heritage assets would be less than substantial, the public benefits of the scheme, including providing accessible communications equipment to members of the public does not outweigh this harm, because the equipment could likely be located elsewhere in a location where harm to the significance of heritage assets would not occur.

Pedestrian Flow/Safety

69. The highly commercial natured Oxford Street experiences high pedestrian flows and the width of the pavement reflects this. The proposal would reduce the width of pavement between the buildings fronting the road and the call box such that approximately 4 metres would remain. However, given the proximity to the junction with Poland Street where people may be queuing to cross, and the physical obstruction that the proposal would cause, there would be a high probability that the pedestrian environment in this locality would become congested at certain times which may result in pedestrians stepping out into the carriageway to avoid such congestion. Accordingly, I find that the proposal would impede pedestrian flows in the locality and be harmful to highway safety.

Conclusion and Recommendation

70. For the above reasons I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area, the significance of designated heritage assets and the flow and safety of pedestrians. In reaching this conclusion I have had regard to a number of appeal decisions that the appellant has drawn to my attention. However, the circumstances of those cases, including the sites to which they relate are not comparable to the

circumstances before me. The examples do not provide justification for harmful development.

71. For the above reasons, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

Appeal H

Character and Appearance

72. The appeal site is located on Oxford Street, famous for its commercial character and extremely high pedestrian and traffic flow, as was evident on my site visit. It is unclear from the plans submitted whether the appeal site is within or just outside the boundary of Soho CA, however even if it is not, it is clearly within its setting in addition to that of the East Marylebone CA whose boundary runs on the opposite side of Oxford Street at this point. Both conservation areas are vibrant, displaying a range of architecture and within the vicinity of the appeal site are commercial in character.
73. The proposed kiosk would be sited outside a large mixed use building close to the corner of Oxford Street and Wardour Street and next to a pedestrian crossing. The street furniture at this point of the street is limited to signposts and a bin. The locality is relatively uncluttered in this regard. The proposal would introduce a tall, modern structure into the pavement environment which would be significantly bulkier than nearby street furniture and would contribute to undesirable street clutter. As a consequence, the siting and appearance of the proposal would be harmful to the character and appearance of the area.
74. Notwithstanding my findings above I consider that given the scale of the proposal in comparison to the wider townscape would ensure that it would not be harmful to the significance of the adjoining conservation areas. The setting of the conservation areas would be preserved.
75. The appeal site is located next to 133-135 Oxford Street, a grade II* listed building. The significance of the building lies with its architectural quality. The building is a cast-stone clad building with three eclectic Baroque-style elevations. The three-bay Oxford Street frontage has strong compositional qualities with a central decorated bay. The proximity of the proposed call box to the Oxford Street frontage of the listed building means that views of the building from numerous directions would be compromised detrimentally in addition to the way they are experienced. Harm to the significance of this heritage asset would therefore result.
76. Given the comparable scales of the call box and the listed building, I find that the harm that would result to its significance as a heritage asset would be less than substantial, however I attach great weight to this matter in my consideration of this case. The public benefits of the scheme, including providing accessible communications equipment to members of the public does not outweigh this harm, because the equipment could likely be located elsewhere in a location where harm to the significance of a designated heritage asset would not occur.

Pedestrian Flow/Safety

77. The appeal site is close to a pedestrian crossing. As a result of its siting and appearance the new call box would narrow the width of the pavement within its vicinity. The structure would cause a physical obstruction along this busy stretch of pavement and would be likely to inhibit the free flow of pedestrians using the pavement. This would be particularly so at times when a number of people were waiting to cross the road at the nearby crossing. In such circumstances, there would be a high probability that some pedestrians may step into the carriageway to avoid congestion along the pavement or cross the road, at a point that is unlikely to be safe. Accordingly, I find that the proposal would impede pedestrian flows in the locality and be harmful to highway safety.

Conclusion and Recommendation

78. For the above reasons I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area, the significance of a designated heritage asset and the flow and safety of pedestrians. In reaching this conclusion I have had regard to a number of appeal decisions that the appellant has drawn to my attention. However, the circumstances of those cases, including the sites to which they relate are not comparable to the circumstances before me. The examples do not provide justification for harmful development.

79. For the above reasons, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

Appeal I

Character and Appearance

80. The appeal site is located on Oxford Street, famous for its commercial character and extremely high pedestrian and traffic flow, as was evident on my site visit. It is evident from the plans submitted that the appeal site is just outside the boundary of Soho CA which is sited on the opposite side of Oxford Street, and East Marylebone CA, which lies on the opposite side of Newman Street. The boundaries of Hanway Street CA are not clear on the basis of the evidence before me.

81. Soho CA is designated as London's 'most central village', extremely dense, urban colourful and vibrant in character. There is no information before me in terms of the designation of East Marylebone and Hanway Street CA's, however with regards to East Marylebone CA, it is visibly varied character with a mix of commercial and residential streets.

82. The proposed call box would be sited outside 79 Oxford Street, a large building under construction at the time of my site visit. The appeal site is prominently located between Newman Street and Perry's Place, and highly visible from the underground station entrances opposite. As elsewhere on Oxford Street, the street furniture around the site is limited. The proposed kiosk, by virtue of its scale and design, would be highly prominent and would form a dominant, intrusive feature within the street scene, contributing to unacceptable clutter in

this location. It would result in harm to the character and appearance of the area.

83. Whilst within the setting of nearby conservation areas the proposal would be unlikely to alter the significance of them as heritage assets because of its small scale relative to the townscape within each. Their significance as designated heritage assets would be preserved.

Pedestrian Flow/Safety

84. The appeal site is located along a stretch of Oxford Street which has high pedestrian flows, close to an underground station and pedestrian crossing. The reduction in width of useable pavement that the proposal would cause would impinge on the free flow of pedestrian movement along this stretch of the road, causing a physical obstruction. The proposal would be likely to result in pedestrians stepping out into the carriageway to avoid congestion upon the pavement within the vicinity of the new call box, which would be harmful to highway safety.

Conclusion and Recommendation

85. For the above reasons I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area and the flow and safety of pedestrians. In reaching this conclusion I have had regard to a number of appeal decisions that the appellant has drawn to my attention. However, the circumstances of those cases, including the sites to which they relate are not comparable to the circumstances before me. The examples do not provide justification for harmful development.
86. For the above reasons, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

Appeal J

Character and Appearance

87. The appeal site is located on Oxford Street, famous for its commercial character and extremely high pedestrian and traffic flow, as was evident on my site visit. It is evident from the plans submitted that the appeal site is located outside of, but close to, and within the setting of both the Soho CA and East Marylebone CA. Both conservation areas are vibrant with a range of architecture and are, within the vicinity of the appeal site, commercial in character.
88. The appeal site is located outside a large modern mixed-use building with commercial units on the ground floor. The proposed call box would be sited between two street trees, with a bin, lamppost and the traffic lights on the junction with Wells Street within close proximity.
89. The street furniture within the locality is small in scale or tall and slender. The proposal with its larger footprint and stark, modern design would introduce a bulky piece of street furniture in the locality. This would be significantly at odds with the character and appearance of the locality and would introduce unacceptable street clutter into the pavement environment which would be harmful to the character and appearance of the area.

90. Because of the scale of the proposal relative to the townscape, I find however that the proposal would have a neutral effect on the significance of nearby conservation areas. Their significance as designated heritage would be preserved.

Pedestrian Flow/Safety

91. This part of Oxford Street experiences high pedestrian flows. As a result of its siting and appearance the new call box would narrow the width of the pavement within its vicinity. The structure would cause a physical obstruction along this busy stretch of pavement and would jut out into likely pedestrian desire lines which at present are free of such obstruction. This would be likely to inhibit the free flow of pedestrians using the pavement.

Conclusion and Recommendation

92. For the above reasons I conclude that the siting and appearance of the call box would be harmful to the character and appearance of the area and the flow of pedestrians. In reaching this conclusion I have had regard to a number of appeal decisions that the appellant has drawn to my attention. However, the circumstances of those cases, including the sites to which they relate are not comparable to the circumstances before me. The examples do not provide justification for harmful development.
93. For the above reasons, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

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

RC Kirby

INSPECTOR.