



Appeal Decisions

Site visit made on 6 January 2020

by Conor Rafferty LLB (Hons), AIEEMA, Solicitor (Non-practising)

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2020

Appeal A Ref: APP/N2345/W/19/3235353 Os 1-4 Church Street, Preston, PR1 2QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under an Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (general Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Nathan Still (Infocus Public Networks Limited) against the decision of Preston City Council.
 - The application Ref 06/2019/0569 dated 14 May 2019, was refused by notice dated 9 July 2019.
 - The development proposed is the installation of an electronic communications apparatus comprising a telephone kiosk.
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Appeal B Ref: APP/N2345/W/19/3235355 84 Fishergate, Preston, PR1 2NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under an Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (general Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Nathan Still (Infocus Public Networks Limited) against the decision of Preston City Council.
 - The application Ref 06/2019/0570 dated 14 May 2019, was refused by notice dated 9 July 2019.
 - The development proposed is the installation of a communication hub on the highway by an electronic communications code operator.
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Appeal C Ref: APP/N2345/W/19/3235356 109 - 110 Fishergate, Preston, PR1 2AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under an Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (general Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Nathan Still (Infocus Public Networks Limited) against the decision of Preston City Council.
 - The application Ref 06/2019/0571 dated 14 May 2019, was refused by notice dated 9 July 2019.
 - The development proposed is the installation of a communication hub on the highway by an electronic communications code operator.
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Appeal D Ref: APP/N2345/W/19/3235365 104 - 107 Fishergate, Preston, PR1 2AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under an Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (general Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Nathan Still (Infocus Public Networks Limited) against the decision of Preston City Council.
 - The application Ref 06/2019/0573 dated 14 May 2019, was refused by notice dated 9 July 2019.
 - The development proposed is the installation of a communication hub on the highway by an electronic communications code operator.
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Appeal E Ref: APP/N2345/W/19/3235367
44 Fishergate, Preston, PR1 8BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under an Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (general Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Nathan Still (Infocus Public Networks Limited) against the decision of Preston City Council.
 - The application Ref 06/2019/0574 dated 14 May 2019, was refused by notice dated 9 July 2019.
 - The development proposed is the installation of a communication hub on the highway by an electronic communications code operator.
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Appeal F Ref: APP/N2345/W/19/3235370
Os Market Hall, Market Street, Preston, PR1 2EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under an Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (general Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Nathan Still (Infocus Public Networks Limited) against the decision of Preston City Council.
 - The application Ref 06/2019/0575 dated 14 May 2019, was refused by notice dated 9 July 2019.
 - The development proposed is the installation of a communication hub on the highway by an electronic communications code operator.
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Decisions

1. The Appeals A, B, C, D, E and F are dismissed.

Appeal Procedure

2. The site visit was 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

3. As set out above, there are six separate appeals for the installation of an electronic communications apparatus comprising a telephone kiosk pursuant to Class 16 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO). Whilst each appeal relates to a different site, the proposed kiosks on the sites are identical. I have considered each proposal on

its individual merits, but as they raise similar issues, the cases are dealt with in a single decision letter.

4. Among the refusal reasons provided, the Council states that the developments would each "have an unacceptable adverse impact on the public realm improvements carried out within the city centre". The precise extent of these public realm improvements has not been defined by the Council. However Policies SP1 of the Preston City Centre An Area Action Plan to 2026, adopted June 2016 (the Area Action Plan) has been cited by the Council in its reasons for refusal. It states that development proposals should, among other things, support the following principles: (i) promote ease of pedestrian movement over that of vehicles; (ii) enhance the city's townscape and historic environment; and (iii) reduce visual clutter within the public realm. The main issues have therefore been defined taking these policies into consideration.
5. 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 appeals before me.
6. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed telephone kiosk under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) of the Town and Country Planning (General Permitted Development) Order 2015, subject to prior approval by the local planning authority of siting and appearance.
7. The provisions of the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. My determination of these appeals has been made on the same basis.
8. The High Court has considered the issue of the inclusion of advertising on public call boxes. A recent judgement in the Westminster case (Westminster City Council v Secretary of State for Housing, Communities and Local Government & New World Payphones Ltd (2019) EWHC 176 (Admin)) considered the matter of dual purpose of advertisement display and telecommunications use.
9. This judgement 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'. The judgement went on to state that a development falls outside the scope of Part 16, Class A if it is not 'for the purpose' of the operator's network. Thus, if the development is partly for some other purpose beyond that of the operator's network, it cannot be development 'for the purpose' of the operator's network precisely because it is for something else as well. In that case the proposed kiosk was for a dual purpose of advertisement display and

telecommunications use and therefore contained features that were for advertising and 'not at all there for the telecommunications function'.

10. The proposed call boxes are relatively simple, thin, freestanding structures with a projecting canopy with glazed side sections. They would measure 2.6 metres in height with a 317 millimetre profile and incorporate a 32 inch interactive touch screen with high definition LCD technology. The outer structural casing of the call boxes would be powder coated to a metal chain grey colour.
11. It is apparent that the form and design of the proposed telecommunications apparatus in these appeals is driven by the proposed functionality as public call boxes. There is no evidence to suggest that the proposed developments include elements that are there for the purpose of advertising. Consequently, on the basis of the evidence provided in these appeals, I consider that the proposals are for the purpose of the operator's electronic communications network.

Planning Policy

12. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan, any related guidance and the National Planning Policy Framework only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

13. The main issues are:

- i) The effect of the siting and appearance of the proposed kiosk on the character and appearance of the surrounding area (All Appeals);
- ii) The effect of the siting and appearance of the proposed call box on the safe and efficient operation of the highway network (All Appeals);
- iii) Whether the siting and appearance of the proposed kiosk would preserve or enhance the character or appearance of a Conservation Area (All Appeals); and
- iv) The effect of the siting and appearance of the proposal on the setting of a nearby Listed Building (Appeal A; Appeal B; Appeal F).

Reasons for the Recommendation

Appeal A

Character and appearance; Conservation Area; Listed Building

14. The appeal site is located on the pavement of Church Street, close to the junction with Birley Street. The site is in front of the Miller Arcade Grade II Listed Building and falls within the Market Place Conservation Area (the MPCA). The surrounding part of the MPCA is primarily commercial, with a mix of both traditional and more modern buildings. However, due to the presence of the Listed Building, the section of footpath along which the call box would be situated has a predominantly traditional feel, albeit with modern shop facades at ground level.

15. While the surrounding footpaths in the area are primarily wide and free from structures, the call box would be sited in a section that has several existing pieces of street furniture including lampposts, a bin and a bench. Traditional black fencing also squares off a sizeable section of the footpath. Viewed collectively, the streetscape appears cluttered. The proposed siting of the call box would be in line with the other pieces of street furniture at a wide, sweeping corner part of the footpath. However, an additional call box at this location would add to the proliferation of existing street furniture. As a result of its height, width and footprint, it would represent an imposing addition compared to the smaller elements present on the footpath and would contribute to the cluttered feel to the visual detriment of the character and appearance of this part of the streetscape.
16. The significance of the immediate part of the MPCA is defined by its primarily traditional and historic architectural appearance. Accordingly, the proposal would appear as an overtly modern structure on the immediate streetscape, particularly due to the fact that the other large elements of street furniture present such as the lampposts and railings are designed so as to reflect the traditional nature of this section of the MPCA. The call box would therefore present an incongruous addition to the footpath, detracting from the predominant character of this section of the MPCA.
17. Furthermore, the proposal would be experienced alongside the Grade II Listed Building. In such a dense urban context the streetscape provides overlapping settings but the traditional style of the Listed Building in a prominent corner plot location is a dominating feature of this section of Church Street. This setting highlights and contributes to both its visual and historic significance. Despite the already mixed urban setting, the contemporary design of the proposal would further detract from the historic and visual significance of the building and as such would have a negative effect on the setting of this Listed Building.
18. Whilst the level of harm caused to both the Listed Building and the MPCA would be less than substantial it is, nevertheless, to be given considerable importance and weight. This harm has been weighed against the number of public benefits purported by the appellant, including the provision of accessible communications to the public and the accessibility of the call box itself. It has also been weighed against the provisions of the National Planning Policy Framework (the NPPF) which encourage electronic communications. However, whilst I recognise the general acceptance of the principle of call boxes through the GPDO and the public benefits that would arise there is little before me to indicate that the proposed siting has been determined having regards to the characteristics of the MPCA and the setting of the Listed Building. In any event, any negative impact arising from what would amount to a small reduction in local coverage in the absence of the apparatus would be significantly outweighed by the substantial weight that should be afforded to the harm to the MPCA and the setting of the Listed Building.
19. The proposal would therefore conflict with Policy 16 of the Central Lancashire Adopted Core Strategy Local Development Framework, adopted July 2012 (the Core Strategy) and Policies EP7, EN8 and EN9 of the Preston Local Plan 2012 –

26 Site Allocations and Development Management Policies, adopted 2 July 2015 (the Local Plan)

Highway Safety

20. The proposal would be located on a footpath that is likely to be relatively well used by pedestrians, given the presence of nearby commercial premises. Despite the pavement being reasonably wide, the proposed siting of the call box would be close to the existing street furniture and in this location has the potential to visually and physically obstruct the flow of pedestrian traffic travelling along Church Street and into or emerging from Birley Street.
21. The proposal would introduce a wide obstacle to the footpath along with the street furniture and trees already present and as such would greatly reduce the pavement width in its immediate area. This, in turn, would diminish the area for pedestrians and create a narrow useable corridor along the footpath. Accordingly, the flow of pedestrian traffic would, therefore, be restricted around this area and would be detrimental to highway safety.
22. The proposal would therefore conflict with Policy SP1 of the Area Action Plan.

Appeal B

Character and appearance; Conservation Area; Listed Building

23. The appeal site is located on the pavement of Fishergate, close to the junction with Charnley Street. The site is in front of the former Fishergate Baptist Church Grade II Listed Building and falls within the Winckley Square Conservation Area (the WSCA). The surrounding part of the WSCA is primarily commercial, with a mix of both traditional and more modern buildings. However, due to the presence of the Listed Building, the section of footpath along which the call box would be situated has a more traditional feel than the opposite side of the street, albeit with modern shop facades at ground level.
24. While the surrounding footpaths in the area are primarily wide and free from structures, the call box would be sited in a section of street that has several existing pieces of street furniture including bollards, a street sign and an older style public call box. Concrete block structures are also present on the footpath in the immediate vicinity. Viewed collectively, the streetscape appears cluttered. An additional call box at this location would add to the proliferation of existing street furniture and structures. As a result of its height, width and footprint, it would represent an imposing addition compared to the smaller elements present on the footpath, and would contribute to the cluttered feel to the visual detriment of the character and appearance of this part of the streetscape.
25. Acknowledging the range of architectural styles in the immediate vicinity and the modern shop facades at street level, the significance of the immediate part of the WSCA is defined by the traditional style of buildings at first floor level to the east of the appeal site and the Listed Building to the west. Accordingly, the proposal would appear as an overtly modern structure on the immediate streetscape, particularly when experienced alongside the older style of call box in close proximity. The proposed call box would therefore present an

incongruous addition to the footpath, detracting from the predominant character of this section of the WSCA.

26. Furthermore, the proposal would be experienced alongside the Grade II Listed Building. In such a dense urban context the streetscape provides overlapping settings but the traditional style of the Listed Building in a prominent location at the junction with Charnley Street is a dominating feature of this section of Fishergate. This setting highlights and contributes to both its visual and historic significance. Despite the already mixed urban setting, the contemporary design of the proposal would further detract from the historic and visual significance of the building and as such would have a negative effect on the setting of this Listed Building.
27. Whilst the level of harm caused to both the Listed Building and the WSCA would be less than substantial it is, nevertheless, to be given considerable importance and weight. This harm has been weighed against the number of public benefits purported by the appellant, including the provision of accessible communications to the public and the accessibility of the call box itself. It has also been weighed against the provisions of the National Planning Policy Framework (the NPPF) which encourage electronic communications. However, whilst I recognise the general acceptance of the principle of call boxes through the GPDO and the public benefits that would arise there is little before me to indicate that the proposed siting has been determined having regards to the characteristics of the WSCA and the setting of the Listed Building. In any event, any negative impact arising from what would amount to a small reduction in local coverage in the absence of the apparatus would be significantly outweighed by the substantial weight that should be afforded to the harm to the WSCA and the setting of the Listed Building.
28. For the reasons set out above I find that the proposal would, by reason of its siting and appearance, have a harmful appearance on the character and appearance of this part of the streetscape; would fail to preserve or enhance the character or appearance of the WSCA; and would cause harm to the setting of the former Fishergate Baptist Church Grade II Listed Building at 83B Fishergate.
29. The proposal would therefore conflict with Policy 16 of the Core Strategy and Policies EP7, EN8 and EN9 of the Local Plan.

Highway Safety

30. The proposal would be located on a footpath that is likely to be relatively well used by pedestrians, given the presence of nearby commercial premises. Despite the pavement being reasonably wide, the proposed siting of the call box would be close to the existing street furniture and in this location has the potential to visually and physically obstruct the flow of pedestrian traffic travelling both along Fishergate and turning into Charnley Street.
31. The proposal would introduce a wide obstacle to the footpath along with the street furniture and trees already present and as such would greatly reduce the pavement width in its immediate area. This, in turn, would diminish the useable area for pedestrians along the footpath and necessitate diversion

around the call box. Accordingly, the flow of pedestrian traffic would, therefore, be restricted around this area and would be detrimental to highway safety.

32. The proposal would therefore conflict with Policy SP1 of the Area Action Plan.

Appeal C

Character and appearance; Conservation Area

33. The appeal site is located on the pavement of Fishergate outside the entrance to the River Island store and falls within the WSCA. The surrounding part of the WSCA is predominantly commercial, with shop front facades at street level and a mix of both traditional and more modern building styles at first floor level. Although the first floor of the River Island store has a traditional red brick design the primary style along this section of the street is more modern in nature, particularly due to the imposing presence of the St Georges Shopping Centre entrance.

34. While the surrounding footpaths in the area are primarily wide and free from structures, the call box would be sited in a section of street with bollards, concrete blocks and a tree already positioned in front of the store facade. Viewed collectively, the streetscape appears cluttered. A call box at this location would add to the proliferation of existing structures. As a result of its height, width and footprint, it would represent an imposing addition compared to the concrete blocks and bollards present on the footpath, and would contribute to the cluttered feel to the visual detriment of the character and appearance of this part of the streetscape.

35. The proposal would represent a noticeably more contemporary addition to the immediate area than the other structures on the footpath, including the facades and buildings lining the street. However, this section of the WSCA is defined by its mixture of styles and characters, with a primarily modern feel in the vicinity of the appeal site. As such, while the call box would be at odds with the more traditional architecture present in the WSCA, this harm is lessened by the fact that it would be located among the range of styles present in the immediate area.

36. Whilst the level of harm caused to the WSCA would be less than substantial it is, nevertheless, to be given considerable importance and weight. This harm has been weighed against the number of public benefits purported by the appellant, including the provision of accessible communications to the public and the accessibility of the call box itself. It has also been weighed against the provisions of the National Planning Policy Framework (the NPPF) which encourage electronic communications. However, whilst I recognise the general acceptance of the principle of call boxes through the GPDO and the public benefits that would arise there is little before me to indicate that the proposed siting has been determined having regards to the characteristics of the WSCA. In any event, any negative impact arising from what would amount to a small reduction in local coverage in the absence of the apparatus would be significantly outweighed by the substantial weight that should be afforded to the harm to the WSCA.

37. For the reasons set out above I find that the proposal would, by reason of its siting and appearance, have a harmful appearance on the character and

appearance of this part of the streetscape and would fail to preserve or enhance the character or appearance of the WSCA.

38. The proposal would therefore conflict with Policy 16 of the Core Strategy and Policies EP7, EN8 and EN9 of the Local Plan.

Highway Safety

39. The proposal would be located on a footpath that is likely to be relatively well used by pedestrians, given the presence of nearby commercial premises. Despite the pavement being reasonably wide, the proposed siting of the call box would be close to the existing structures and trees along the street and in this location has the potential to visually and physically obstruct the flow of pedestrian traffic travelling along Fishergate.
40. The proposal would introduce a wide obstacle to the footpath along with the street furniture and trees already present and as such would greatly reduce the pavement width in its immediate area. This, in turn, would diminish the area for pedestrians and create a narrow useable corridor along the footpath. Accordingly, the flow of pedestrian traffic would, therefore, be restricted around this area and would be detrimental to highway safety.
41. The proposal would therefore conflict with Policy SP1 of the Area Action Plan.

Appeal D

Character and appearance; Conservation Area

42. The appeal site is located on the pavement of Fishergate outside the entrance to the WHSmith store and falls within the WSCA. The surrounding part of the WSCA is predominantly commercial, with shop front facades at street level and a mix of both traditional and more modern building styles at first floor level. Although the first floor of the Next store opposite the appeal site has a traditional design the primary style along this section of the street is more modern in nature, particularly due to the imposing presence of the St Georges Shopping Centre entrance.
43. While the surrounding footpaths in the area are primarily wide and free from structures, the call box would be sited in a section of street with concrete blocks and a tree already positioned in front of the store facade. Viewed collectively, the streetscape appears cluttered. A call box at this location would add to the proliferation of existing structures. As a result of its height, width and footprint, it would represent an imposing addition compared to the concrete blocks present on the footpath, and would contribute to the cluttered feel to the visual detriment of the character and appearance of this part of the streetscape.
44. The proposal would represent a noticeably more contemporary addition to the immediate area than the other structures on the footpath, including the facades and buildings lining the street. However, this section of the WSCA is defined by its mixture of styles and characters, with a primarily modern feel in the vicinity of the appeal site. As such, while the call box would be at odds with the more traditional architecture present in the WSCA, this harm is lessened by

the fact that it would be located among the range of styles present in the immediate area.

45. Whilst the level of harm caused to the WSCA would be less than substantial it is, nevertheless, to be given considerable importance and weight. This harm has been weighed against the number of public benefits purported by the appellant, including the provision of accessible communications to the public and the accessibility of the call box itself. It has also been weighed against the provisions of the National Planning Policy Framework (the NPPF) which encourage electronic communications. However, whilst I recognise the general acceptance of the principle of call boxes through the GPDO and the public benefits that would arise there is little before me to indicate that the proposed siting has been determined having regards to the characteristics of the WSCA. In any event, any negative impact arising from what would amount to a small reduction in local coverage in the absence of the apparatus would be significantly outweighed by the substantial weight that should be afforded to the harm to the WSCA.
46. For the reasons set out above I find that the proposal would, by reason of its siting and appearance, have a harmful appearance on the character and appearance of this part of the streetscape and would fail to preserve or enhance the character or appearance of the WSCA.
47. The proposal would therefore conflict with Policy 16 of the Core Strategy and Policies EP7, EN8 and EN9 of the Local Plan.

Highway Safety

48. The proposal would be located on a footpath that is likely to be relatively well used by pedestrians, given the presence of nearby commercial premises. Despite the pavement being reasonably wide, the proposed siting of the call box would be close to the existing structures along the street and in this location has the potential to visually and physically obstruct the flow of pedestrian traffic travelling along Fishergate.
49. The proposal would introduce a wide obstacle to the footpath along with the existing structures and trees already present and as such would greatly reduce the pavement width in its immediate area. This, in turn, would diminish the area for pedestrians and create a narrow useable corridor along the footpath. Accordingly, the flow of pedestrian traffic would, therefore, be restricted around this area and would be detrimental to highway safety.
50. The proposal would therefore conflict with Policy SP1 of the Area Action Plan.

Appeal E

Character and appearance; Conservation Area

51. The appeal site is located on the pavement of Fishergate at the corner junction with Chapel Street and falls within the WSCA. The surrounding part of the WSCA is primarily commercial, with shop front facades at street level and a mix of both traditional and more modern building styles at first floor level.
52. While the surrounding footpaths in the area are primarily wide and free from structures, the call box would be sited in a section of street with bollards

already positioned in front of the store facade. Viewed collectively, the streetscape appears cluttered. A call box at this location would add to the proliferation of existing structures. As a result of its height, width and footprint, it would represent an imposing addition compared to bollards present on the footpath, and would contribute to the cluttered feel to the visual detriment of the character and appearance of this part of the streetscape.

53. While acknowledging the overlapping styles and characters of the buildings in the immediate area, the proposal would represent an overtly modern addition to the streetscape. Its prominent corner plot location would allow the callbox to be experienced alongside a variety of surrounding properties, including the more traditional buildings located on the opposite side of Fishergate and on Chapel Street. In this regard its contemporary style and appearance would be accentuated and the call box would therefore present an incongruous addition to the footpath, detracting from the predominant character of this section of the MPCA.
54. Whilst the level of harm caused to the WSCA would be less than substantial it is, nevertheless, to be given considerable importance and weight. This harm has been weighed against the number of public benefits purported by the appellant, including the provision of accessible communications to the public and the accessibility of the call box itself. It has also been weighed against the provisions of the National Planning Policy Framework (the NPPF) which encourage electronic communications. However, whilst I recognise the general acceptance of the principle of call boxes through the GPDO and the public benefits that would arise there is little before me to indicate that the proposed siting has been determined having regards to the characteristics of the WSCA. In any event, any negative impact arising from what would amount to a small reduction in local coverage in the absence of the apparatus would be significantly outweighed by the substantial weight that should be afforded to the harm to the WSCA.
55. For the reasons set out above I find that the proposal would, by reason of its siting and appearance, have a harmful appearance on the character and appearance of this part of the streetscape and would fail to preserve or enhance the character or appearance of the WSCA.
56. The proposal would therefore conflict with Policy 16 of the Core Strategy and Policies EP7, EN8 and EN9 of the Local Plan.

Highway Safety

57. The proposal would be located on a footpath that is likely to be relatively well used by pedestrians, given the presence of nearby commercial premises. Despite the pavement being reasonably wide, the proposed siting of the call box would be close to the existing structures along the street and in this location has the potential to visually and physically obstruct the flow of pedestrian traffic travelling along Fishergate and turning into or emerging from Chapel Street.
58. The proposal would introduce a wide obstacle to the footpath along with the street furniture already present and as such would greatly reduce the pavement width in its immediate area. This, in turn, would diminish the area

for pedestrians and necessitate diversion around the call box. Accordingly, the flow of pedestrian traffic would, therefore, be restricted around this area and would be detrimental to highway safety.

59. The proposal would therefore conflict with Policy SP1 of the Area Action Plan.

Appeal F

Character and appearance; Conservation Area; Listed Building

60. The appeal site is located on Market Street, outside the Covered Market Grade II Listed Building and within the Market Place Conservation Area (the MPCA). The surrounding part of the MPCA is primarily commercial, with shop front facades at street level and a mix of both traditional and more modern building styles at first floor level. However, due to the presence of the Listed Building and the row of red brick buildings along the corner of Market Street and Orchard Street opposite the appeal site, the immediate area has a predominantly traditional and historic feel.
61. The useable area of the highway on which the call box would be located is a wide sweeping section. Other elements of street furniture were present in the immediate vicinity at the time of the site visit, which the Council has stated are not permanent features and can be removed for creating an event space. If this is the case, the proposal would be an incongruous addition by nature of being a permanent element of street furniture in a wide, sweeping part of the highway directly in front of the Market Hall. However, even if the other elements of street furniture such as the planters and bins were in fact also permanent additions, the proposal would still appear alien due to its height and contemporary appearance which are not reflective of the style of the immediate area, or cohesive with the other elements of street furniture present. Its presence would be to the visual detriment of the character and appearance of this part of the streetscape.
62. The significance of the immediate part of the MPCA is defined by the historic character of the market place. Accordingly, the proposal would appear as an overtly modern structure on the immediate streetscape, particularly due to the fact that the other elements of street furniture present such as the railings and bollards are designed so as to reflect the traditional nature of this section of the MPCA. The call box would therefore present an incongruous addition to the footpath, detracting from the predominant character of this section of the MPCA.
63. Furthermore, the proposal would be experienced alongside the Grade II Listed Building. In such a dense urban context the streetscape provides overlapping settings. Furthermore, the Market Hall incorporates modern elements with a glazed façade. However, the overall traditional nature and character of the Listed Building in a prominent location is a dominating feature of this section of Church Street. This setting highlights and contributes to both its visual and historic significance. Despite the already mixed urban setting, the contemporary design of the proposal directly in front of the Market Hall would further detract from the historic and visual significance of the building and as such would have a negative effect on the setting of this Listed Building.

64. Whilst the level of harm caused to both the Listed Building and the MPCA would be less than substantial it is, nevertheless, to be given considerable importance and weight. This harm has been weighed against the number of public benefits purported by the appellant, including the provision of accessible communications to the public and the accessibility of the call box itself. It has also been weighed against the provisions of the National Planning Policy Framework (the NPPF) which encourage electronic communications. However, whilst I recognise the general acceptance of the principle of call boxes through the GPDO and the public benefits that would arise there is little before me to indicate that the proposed siting has been determined having regards to the characteristics of the MPCA and the setting of the Listed Building. In any event, any negative impact arising from what would amount to a small reduction in local coverage in the absence of the apparatus would be significantly outweighed by the substantial weight that should be afforded to the harm to the MPCA and the setting of the Listed Building.

65. The proposal would therefore conflict with Policy 16 of the Core Strategy and Policies EP7, EN8 and EN9 of the Local Plan.

Highway Safety

66. The proposal would be located on an area of highway that is likely to be relatively well used by pedestrians, given the presence of the covered Market Hall and nearby commercial premises. While the proposal would represent a permanent fixture to the highway, the useable area of the highway for pedestrians in this area is wide and sweeping. It is therefore not considered that the proposal would have an adverse impact on the safe and efficient operation of the highway from a pedestrian perspective.

67. The Council has also raised that the proposal would lead to adverse impacts on servicing arrangements for businesses on Lowthian Street and Orchard Street by introducing development in an area used by vehicular traffic. However, given the dimensions of the proposal and its proposed positioning relative to the Lowthian Street and Orchard Street junction, and due to the fact that no other elements of street furniture outside the covered Market Hall are permanent fixtures, ample space would remain for the passage of vehicles. The call box would be situated back from the junction towards the canopy of the covered market and as such would not impede of vehicular flow to such an extent as to impact the safe and efficient operation of the highway for the purposes of servicing businesses in this location.

68. Pedestrian and vehicular traffic would not be restricted in the area as a result of the proposal and, as such, the call box would comply with Policy SP1 of the Area Action Plan.

Other considerations (All Appeals)

69. The appellant has referred to other street furniture and information panels as being comparable to the proposed development. However, limited information on this has been provided and I have considered each proposal before me on its own individual merits and the specific circumstances and context of each case.

Overall conclusions

70. Having had regard to all matters raised, I recommend that the above appeals should be dismissed.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

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

C Preston

INSPECTOR