

<b>Committee:</b>	<b>Date:</b>
Planning and Transportation	2 June 2015
<b>Subject:</b> 2 No. BT Telephone Kiosks On Finsbury Circus At Side of 88 - 92 Moorgate London EC2M 6SE Change of use of 2no. BT telephone boxes to 2no. retail kiosks (A1). Replacement of the existing telephone box glazing with toughened safety glass.	<b>Public</b>
<b>Ward:</b> Coleman Street	<b>For Decision</b>
<b>Registered No:</b> 15/00039/FULL	<b>Registered on:</b> 6 March 2015
<b>Conservation Area:</b> Finsbury Circus	<b>Listed Building:</b> No

### Summary

The application relates to two K6 telephone boxes that are on the south side of Finsbury Circus, close to its junction with Moorgate.

The K6 is a public telephone box that was designed by Sir Giles Gilbert Scott in 1935 to commemorate the silver jubilee of King George V.

The site is within the Finsbury Circus Conservation Area and is within the setting of the grade II listed 76 to 92 Moorgate. The telephone boxes are not listed. They are considered to be non-designated heritage assets.

Planning permission is sought to convert the telephone boxes into retail units (Use Class A1). The telephone equipment would be removed. A self-contained modular unit would be inserted into each telephone box. It would fill the telephone box and would contain a coffee/ice cream machine, a counter, storage units, power supply, refuse storage, a drop down seat (staff use only) and swivel out basin. The modular unit would have retractable wheels that would enable it to be wheeled into and out of the telephone box as and when required.

The existing glazing would be replaced with toughened safety glass to match existing. A lock would be fitted to the doors for security purposes. The external alterations are considered to be acceptable subject to the submission of further design details.

During operational hours the doors to the telephone boxes would remain open in order to enable access to the modular units. One member of staff would stand outside the telephone boxes and serve customers. Customers would stand and queue on the highway. Details of adequate refuse storage arrangements have not been provided.

It is considered that the proposed use, its associated paraphernalia and the extent to which it would spill onto the highway would detract from the

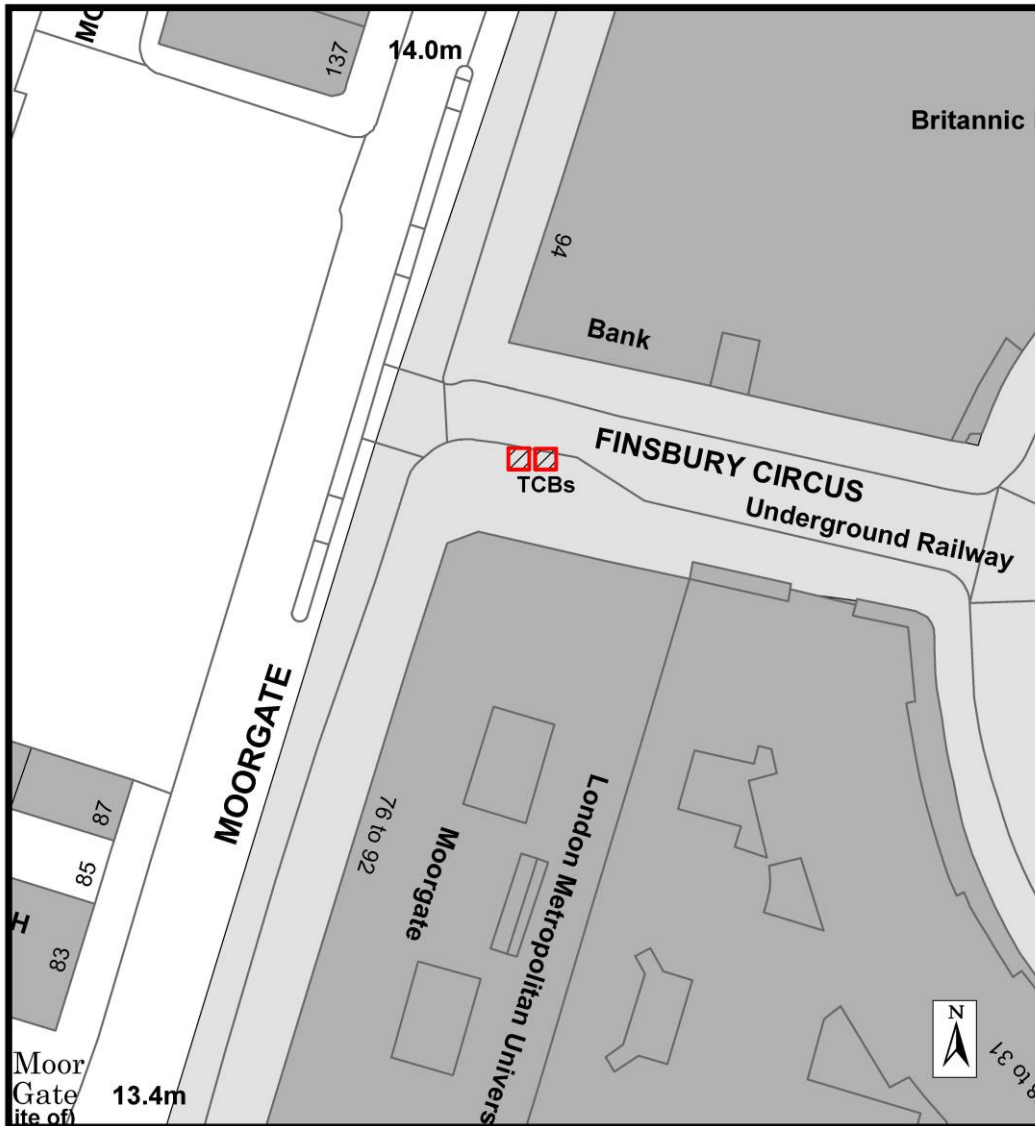
significance of the telephone boxes as non-designated heritage assets and would result in some less than substantial harm to this part of the Finsbury Circus Conservation Area and the setting of the grade II listed 76 to 92 Moorgate.

The City's streets have high levels of footfall. It is anticipated that footfall will increase over the next ten years. Increased pedestrian permeability and enhancement of the public realm is a priority for the City. The proposed use would obstruct the highway and detract from the public realm to an unacceptable degree.

### **Recommendation**

That the application be refused for the reasons set out in the attached schedule.

# Site Location Plan



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ADDRESS:  
Finsbury Circus, at side of 88-92 Moorgate

CASE No.  
15/00039/FULL

-  SITE LOCATION
-  LISTED BUILDINGS
-  CONSERVATION AREA BOUNDARY



DEPARTMENT OF THE BUILT ENVIRONMENT



Looking west towards Moorgate (prior to Crossrail works)



Telephone boxes currently concealed by hoarding

**Case No. 15/00039/FULL**

## **Main Report**

### **Site**

1. The application relates to two K6 telephone boxes that are on the south side of Finsbury Circus, close to its junction with Moorgate.
2. The K6 is a public telephone box that was designed by Sir Giles Gilbert Scott in 1935 to commemorate the silver jubilee of King George V.
3. These telephone boxes are not listed. They are considered to be non-designated heritage assets. The site is within the Finsbury Circus Conservation Area. It is within the setting of the grade II listed number 76 to 92 Moorgate (London Metropolitan University). Salisbury House to the south of the site is grade II listed, number 1 to 6 Finsbury Circus (Britannic House) to the north of the site is grade II\* listed.

### **Proposal**

4. Planning permission is sought to convert the telephone boxes into retail units (Use Class A1) that could sell pre-packed cold drinks, ice cream or hot beverages.
5. The existing telephones and associated equipment would be removed. A self-contained modular unit would be inserted into each telephone box. It would fill the box and would contain a coffee/ice cream machine, a counter, storage units, power supply, refuse storage, a drop down seat (staff use only) and swivel out basin.
6. The modular unit would not be fixed in position. It would have retractable wheels that would enable it to be wheeled into and out of the telephone box as and when required.
7. During operational hours the doors to the telephone boxes would remain open in order to enable access to the modular unit. One member of staff would stand outside the telephone boxes and serve customers.
8. Stock would be delivered to the site by bicycle or on foot in pedestrianised areas and by a car or small van in non-pedestrianised area. The applicant has advised that small stock levels are required.
9. The existing glazing would be replaced with toughened safety glass to match existing. A lock would be fitted to the doors for security purposes.

### **Consultations**

10. The application has been publicised on site and in the press.
11. The views of other City of London departments have been taken into account in the consideration of this scheme.
12. Historic England, formerly English Heritage states that the application should be determined in accordance with national and local policy guidance and on the basis of the City's specialist conservation advice.

13. The City of London Conservation Area Advisory Committee support the City's policy of seeking to reduce street clutter and objected to the proposal considering it to be detrimental to the street scene within this setting and to the conservation area by virtue of the increased advertising and the solidification which would destroy the unique character of the telephone boxes. This particular change would involve the telephone box door being permanently open to the detriment of the conservation area.
14. The City of London's Licensing Manager has expressed concerns about the proposal given that it would involve a person standing on the street selling goods. The applicant has been advised of the comments from the Licensing Manager which note that "Section 15 of the City of London (Various Powers) Act 1987 creates an offence of street trading ('the selling or exposing or offering for sale of any article or thing in a street') contrary to Part III of that Act. In order to comply with Part III a street trader would either have to trade on a Sunday in a particular location in a defined area of Middlesex Street or obtain a temporary license for a maximum period of 21 days...there are currently no circumstances that would permit the sale of refreshments on the street on a permanent basis anywhere in the City of London other than in Middlesex Street on a Sunday". Notwithstanding this advice the applicant has requested that the planning application is determined.

### **Policy Context**

15. The development plan consists of the London Plan, and the City of London Local Plan. The London Plan and Local Plan policies that are most relevant to the consideration of this case are set out in Appendix A to this report.
16. Government Guidance is contained in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (PPG).

### **Considerations**

17. The Corporation in determining the planning application has the following main statutory duties to perform:-
  - To have regard to the provisions of the development plan, so far as material to the application, to local finance considerations so far as material to the application, and to any other material considerations (Section 70 (2) Town & Country Planning Act 1990);
  - To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004);
  - In considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its settings or any features of special architectural or historic interest which it possesses. (S66 (1) Planning (Listed Building and Conservation Areas) Act 1990)

- When considering the applications special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area (S72 (1) Planning (Listed Buildings and Conservation Areas) Act1990).
18. In considering the planning application before you, account has to be taken of the statutory and policy framework, the documentation accompanying the application, and the views of both statutory and non-statutory consultees.
  19. Chapter 12 of the NPPF is relevant in this instance as it sets out key policy considerations for applications relating to designated and non-designated heritage assets. Other relevant guidance is provided by Historic England including the documents Conservation Principles, and The Setting of Heritage Assets. Building in Context (HE/CABE) and the PPS5 Practice Guide in respect of the setting of heritage assets.
  20. Considerable importance and weight should be given to the desirability of preserving or enhancing the character or appearance of a conservation area and the setting of a listed building, when carrying out any balancing exercise in which harm to the significance of conservation areas or listed buildings is to be weighed against public benefits. A finding that harm would be caused to a conservation area or setting of a listed building gives rise to a strong presumption against planning permission being granted.
  21. It is necessary to assess all of the policies and proposals in the Development Plan and to come to a view as to whether in the light of the whole plan the proposal does or does not accord with it.
  22. The principal issues in considering this planning application are:
    - The extent to which the proposal complies with Government policy advice (NPPF) and the relevant policies of the Development Plan, having particular regard to:
      - The acceptability of the proposed alterations in design and heritage terms.
      - The suitability of the site to accommodate the proposed retail units.

### **The Acceptability of the Proposal in Design and Heritage Terms**

23. Policy DM12.2 of the Local Plan states that development in conservation areas will only be permitted if it preserves and enhances the character or appearance of the conservation area. Policy DM12.1 seeks to ensure that the significance and setting of heritage assets is sustained. Policy DM10.1 encourages a high standard of design in development proposals. Policy 7.8 of the London Plan seeks to ensure that development affecting heritage assets and their setting should conserve their significance by being sympathetic to their form, scale, materials and architectural detail. Chapters 7 and 12 of the NPPF set out relevant design and heritage policies.

24. Consideration needs to be given to the impact that the proposal would have on significance of the Finsbury Circus Conservation Area and the setting of 76 to 92 Moorgate as designated heritage assets. The non-listed K6 telephone boxes are considered to be non-designated heritage assets for their evidential, historical and aesthetic value. They are of an iconic design, an archetypical element of British street furniture and represent a formerly commonplace means of communication.
25. The telephone boxes in their current form are complementary to the surrounding Finsbury Circus Conservation Area. 76 to 92 Moorgate London Metropolitan University, by Belcher and Joass, built 1900-3 is a grade II listed five storey, monumental classical building with rusticated stone facade on a granite podium. The K6 kiosk is complimentary to the setting of this listed building
26. A key characteristic of the K6 telephone boxes is their 8 by 3 pattern of glazing which allow light and transparency to the structure, and is in keeping with the "moderne" aesthetics of the 1930s. The proposed replacement glazing would match the existing and the insertion of a locking system would not materially alter the appearance of the telephone box. Further details of the external alterations and a sample of the glazing could be required by condition.
27. The removal of the internal telephone equipment would be aesthetically regrettable as it is visible through the predominantly glazed exterior of the telephone boxes and defines their main use. The proposed modular units would fill the telephone boxes. It is considered that this internal alteration would have a material impact on the external appearance of the telephone boxes. It would result in solidification to the appearance of the K6s to the detriment of their aesthetic character. The submitted visuals indicate that the modular units would display advertising material which would be visible through the glazing but would not be controllable under the advertisement regulations.
28. The proposed use would require the doors to be open permanently during operational hours, changing the visual form, character and footprint of the iconic K6s which would detract from their aesthetic qualities as heritage assets.
29. The proposed retail activity would not be contained within the telephone boxes. It would spill out on to the street. A member of staff would stand on the highway to sell the products and people would queue on the highway to buy the products.
30. The proposed retail uses and associated paraphernalia would detract from the significance of the telephone boxes as non-designated assets. The resultant visual clutter and solidification of the telephone boxes would detract from the visual amenity of the locality and result in some less than substantial harm to the significance of this part of the Finsbury Circus Conservation Area and the setting of the grade II listed 76 to 92 Moorgate as designated heritage assets. The draft Finsbury Circus Conservation Area Character Summary and Management Strategy SPD notes how the west side of Finsbury Circus and external standpoints on Moorgate are



important as they provide views of the Finsbury Circus gardens and interior of the conservation area. The proposal would detract from these local views.

31. Consideration has been given to paragraph 134 of the NPPF. It is not considered that the less than substantial harm to the conservation area and the setting of 76 to 92 Moorgate would be outweighed by the public benefits of the proposal. The proposals would therefore be contrary to policies DM 12.2, DM12.1 and DM10.1 of the Local Plan, policy 7.8 of the London Plan and the aims of chapters 7 and 12 of the NPPF.

### **The Suitability of the Site to Accommodate the Proposed Retail Units**

32. Policy CS10 of the Local Plan seeks to focus new retail development on the Principal Shopping Centres and encourage movements between the principal Shopping Centres by enhancing the retail environment in the retail links. The site is not within a Principal Shopping Centre or along a Retail Link as defined by the Local Plan. It is on the periphery of the Moorgate Principal Shopping Centre.
33. The telephone boxes are sited on public highway. Policy DM10.4 of the Local Plan encourages the enhancement of highways, the public realm and other spaces. It states that enhancement schemes should be of a high standard of design, having regard to following matters of relevance to the determination of this application:
  - Connections between spaces and the provision of pleasant walking routes;
  - The need to provide accessible and inclusive design, ensuring that streets and walkways remain uncluttered;
  - The need for pedestrian priority and enhanced permeability.
34. Policy CS16 of the Local Plan aims to improve conditions for safe and convenient walking. London Plan Policy 6.10B states that development proposals should ensure high quality pedestrian environments. London Plan policy 7.5B advises that street furniture and infrastructure should be of the highest quality, maintain uncluttered spaces and should contribute to easy movement of people through space.
35. The City's streets currently have a high level of footfall particularly during peak hours. A report was presented to the Planning and Transportation Committee on the 13<sup>th</sup> January 2015 regarding items on the highway (A boards, bike racks etc.). The report noted that the City is expecting a significant increase in commuters, shoppers and visitors. The current daily population of users of the City is estimated to be around 330,000 people and with the growth of the 'Eastern Cluster' office developments, the construction of Crossrail, Bank upgrade and the Thameslink upgrade the City's daily population is predicted to rise to well over 400,000 in the next ten years. This could result in the streets becoming even busier. The London Plan reinforces the importance of planning for growth (e.g. "Context and Strategy" paragraph 1.47).

36. The site is in close proximity to Moorgate Station on a key access route to Finsbury Circus Gardens. Moorgate accommodates high levels of pedestrian flows particularly during commuter and lunchtime periods. The site is in close proximity to the point where pedestrians cross the Finsbury Circus and Moorgate junction. The area will be subject to uplift in pedestrian numbers following the completion of the new Moorgate Crossrail station. It is anticipated that pedestrian flows on the west side of Finsbury Circus will increase further.
37. There is already a number of bike racks in close proximity to the site which somewhat limit accessibility of the telephone boxes. The telephone boxes and bike racks are already in close proximity to the point where pedestrians cross the Finsbury Circus and Moorgate junction. The proposed retail uses would spill onto the highway and would result in further obstruction and clutter, and would detract from the permeability of the locality. During operational hours the doors to the telephone boxes would remain open and project over the highway. A member of staff would stand on the highway to serve customers. The drop down seat and sink would additionally project over the highway when in use. Customers would stand and potentially queue on the highway whilst waiting to be served. When in operation the queues would potentially conflict with those waiting to cross the Finsbury Circus and Moorgate junction. There is concern that the activity has the potential to obstruct the pavement to such an extent that it would make it difficult for wheelchair users to pass.
38. There is additional concern about the inadequacy of the proposed refuse storage arrangements which have the potential to cause further obstruction of the highway. Policy DM17.1 of the Local Plan encourages the provision of integrated waste storage facilities in new developments in order to avoid the need to place waste on the public highway. The modular unit would provide a waste cupboard. Waste would be collected on a daily schedule by a pre-paid sac collection service. There is concern that the proposed waste cupboards would be unable to accommodate a standard refuse sack. The applicant has not provided any information to demonstrate that a waste sack could be satisfactorily accommodated or demonstrated that the frequency and timings of collections would be sufficient to prevent the need for waste to be deposited on the highway.
39. The Waste and Amenity Manager expressed concern that the proposed use could give rise to spillages and staining on the highway. The City Corporation would then be obligated to provide additional street cleansing to these areas at additional cost.
40. The clutter and highway obstruction that the proposed uses would generate would detract from the public realm and pedestrian permeability contrary to the aims of policies DM10.4 and DM17.1 of the Local Plan and policies 6.10B and 7.5B of the London Plan. With the anticipated increase in pedestrian flows from the completion of the Crossrail development street furniture should be kept to a minimum in this area.

41. The introduction of such activity on the highway would be contrary to the aims of the Enhancement Team and their emerging policy to enable the safe management of footpaths and the street environment as set out in the report to Planning and Transportation Committee on the 13<sup>th</sup> January 2015. It could also potentially amount to an unacceptable change of use of the highway land proposed to be used as ancillary to the retail area.
42. Ease of pedestrian movement and the enhancement of the public realm is a priority for the City. It may be preferable for any non-listed telephone boxes that are no longer required for telecommunication purposes to be removed from the highway. While they are considered to be non-designated heritage assets a balanced judgement would need to be made of their historic significance relative to the positive impact of freeing up additional much needed highway space. The telephone boxes that are of special architectural and historic interest have been listed. There are 18 listed telephone kiosks across the City (12 K2s and 6 K6s).

### **Conclusion**

43. These K6 telephone boxes are non-designated heritage assets. It is considered that the proposed retail uses and associated paraphernalia would alter the form of the K6 telephone boxes which would detract from their significance as non-designated heritage assets and would result in some less than substantial harm to the significance of this part of the Finsbury Circus Conservation Area and the setting of the grade II listed 76 to 92 Moorgate as designated heritage assets.
44. Within the City it is projected that footfall will increase further over the next 10 years with the completion of developments such as Crossrail and the growth of the 'Eastern Cluster'. The enhancement of the public realm and enhanced pedestrian permeability is a priority for the City. The proposed conversion of the telephone boxes would obstruct the highway to an unacceptable degree. It has not been demonstrated that satisfactory refuse storage arrangements would be provided which may result in the need for refuse to be placed on the highway.
45. For these reasons the proposal is considered to be contrary to policies DM17.1, DM 12.2, DM12.1, DM10.1 and DM10.4 of the Local Plan, policies 6.10B, 7.5B and 7.8 of the London Plan and the aims of chapters 7 and 12 of the NPPF.

## **Background Papers**

### Internal

25.03.2015 Email Department of Markets and Consumer Protection

### External

Design and Access/Heritage Statement

Details of Replacement Glazing to BT Telephone Boxes

Toughened Glass Specification

Visual of converted telephone box

Existing drawing number: 9232-19.1 PL01

24.03.2015 Letter English Heritage (now Historic England)

07.04.2015 Letter City of London Conservation Area Advisory Committee

08.04.2015 Email Miles Broe Architects

14.05.2015 Email Miles Broe Architects

## **Appendix A**

### **London Plan Policies**

Policy 6.10 Development proposals should ensure high quality pedestrian environments and emphasise the quality of the pedestrian and street space.

Policy 7.5 Development should make the public realm comprehensible at a human scale. Landscape treatment, street furniture and infrastructure should be of the highest quality, have a clear purpose, maintain uncluttered spaces and should contribute to the easy movement of people through the space.

Policy 7.8 Development should identify, value, conserve, restore, re-use and incorporate heritage assets, conserve the significance of heritage assets and their settings and make provision for the protection of archaeological resources, landscapes and significant memorials.

### **Relevant Local Plan Policies**

#### ***DM17.1 Provision for waste***

1. Waste facilities must be integrated into the design of buildings, wherever feasible, and allow for the separate storage and collection of recyclable materials, including compostable material.
2. On-site waste management, through techniques such as recycle sorting or energy recovery, which minimises the need for waste transfer, should be incorporated wherever possible.

#### ***DM12.2 Development in conservation areas***

1. Development in conservation areas will only be permitted if it preserves and enhances the character or appearance of the conservation area.
2. The loss of heritage assets that make a positive contribution to the character or appearance of a conservation area will be resisted.
3. Where permission is granted for the demolition of a building in a conservation area, conditions will be imposed preventing demolition commencing prior to the approval of detailed plans of any replacement building, and ensuring that the developer has secured the implementation of the construction of the replacement building.

#### ***DM12.1 Change affecting heritage assets***

1. To sustain and enhance heritage assets, their settings and significance.
2. Development proposals, including proposals for telecommunications infrastructure, that have an effect upon heritage

assets, including their settings, should be accompanied by supporting information to assess and evaluate the significance of heritage assets and the degree of impact caused by the development.

3. The loss of routes and spaces that contribute to the character and historic interest of the City will be resisted.
4. Development will be required to respect the significance, character, scale and amenities of surrounding heritage assets and spaces and their settings.
5. Proposals for sustainable development, including the incorporation of climate change adaptation measures, must be sensitive to heritage assets.

### ***DM10.1 New development***

To require all developments, including alterations and extensions to existing buildings, to be of a high standard of design and to avoid harm to the townscape and public realm, by ensuring that:

- a) the bulk and massing of schemes are appropriate in relation to their surroundings and have due regard to the general scale, height, building lines, character, historic interest and significance, urban grain and materials of the locality and relate well to the character of streets, squares, lanes, alleys and passageways;
- b) all development is of a high standard of design and architectural detail with elevations that have an appropriate depth and quality of modelling;
- c) appropriate, high quality and durable materials are used;
- d) the design and materials avoid unacceptable wind impacts at street level or intrusive solar glare impacts on the surrounding townscape and public realm;
- e) development has attractive and visually interesting street level elevations, providing active frontages wherever possible to maintain or enhance the vitality of the City's streets;
- f) the design of the roof is visually integrated into the overall design of the building when seen from both street level views and higher level viewpoints;
- g) plant and building services equipment are fully screened from view and integrated in to the design of the building. Installations that would adversely affect the character, appearance or amenities of the buildings or area will be resisted;
- h) servicing entrances are designed to minimise their effects on the appearance of the building and street scene and are fully integrated into the building's design;
- i) there is provision of appropriate hard and soft landscaping, including appropriate boundary treatments;

- j) the external illumination of buildings is carefully designed to ensure visual sensitivity, minimal energy use and light pollution, and the discreet integration of light fittings into the building design;
- k) there is provision of amenity space, where appropriate;
- l) there is the highest standard of accessible and inclusive design.

#### ***DM10.4 Environmental enhancement***

The City Corporation will work in partnership with developers, Transport for London and other organisations to design and implement schemes for the enhancement of highways, the public realm and other spaces. Enhancement schemes should be of a high standard of design, sustainability, surface treatment and landscaping, having regard to:

- a) the predominant use of the space, surrounding buildings and adjacent spaces;
- b) connections between spaces and the provision of pleasant walking routes;
- c) the use of natural materials, avoiding an excessive range and harmonising with the surroundings of the scheme and materials used throughout the City;
- d) the inclusion of trees and soft landscaping and the promotion of biodiversity, where feasible linking up existing green spaces and routes to provide green corridors;
- e) the City's heritage, retaining and identifying features that contribute positively to the character and appearance of the City;
- f) sustainable drainage, where feasible, co-ordinating the design with adjacent buildings in order to implement rainwater recycling;
- g) the need to provide accessible and inclusive design, ensuring that streets and walkways remain uncluttered;
- h) the need for pedestrian priority and enhanced permeability, minimising the conflict between pedestrians and cyclists;
- i) the need to resist the loss of routes and spaces that enhance the City's function, character and historic interest;
- j) the use of high quality street furniture to enhance and delineate the public realm;
- k) lighting which should be sensitively co-ordinated with the design of the scheme.

## SCHEDULE

APPLICATION: **15/00039/FULL**

**2 No. BT Telephone Kiosks On Finsbury Circus At Side of 88 - 92 Moorgate London**

**Change of use of 2no. BT telephone boxes to 2no. retail kiosks (A1). Replacement of the existing telephone box glazing with toughened safety glass.**

### REASONS FOR REFUSAL

- 1 The proposed conversion of the telephone boxes to retail units (Use Class A1) would detract from the significance of the K6 telephone boxes and result in less than substantial harm to part of the Finsbury Circus Conservation Area and the setting of the grade II listed 76 to 92 Moorgate. The scheme would obstruct the highway and would detract from the public realm contrary to policies DM17.1, DM12.2, DM12.1, DM10.1 and DM10.4 of the Local Plan and policies 6.10B, 7.5B and 7.8 of the London Plan.

### INFORMATIVES

- 1 In dealing with this application the City has implemented the requirements of the National Planning Policy Framework to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in dealing with planning applications in the following ways:

detailed advice in the form of statutory policies in the Local Plan, Supplementary Planning documents, and other written guidance has been made available;

a full pre application advice service has been offered;

where appropriate the City has been available to provide guidance on how outstanding planning concerns may be addressed.

However, notwithstanding the above, it has not been possible to achieve solutions to the problems as the proposals are contrary to planning policies, do not demonstrate other over-riding material considerations, and negotiations could not overcome the problems.

- 2 The Plans and Particulars accompanying this application are: 9232-19.1 PL01 rev. A; 9232-19 PL03.