



Appeal Decisions

Site visits made on 29 March 2010

by **JP Roberts BSc(Hons) LLB(Hons) MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
4 May 2010

Appeal A Ref: APP/X5210/A/09/2112782

194 Euston Road, London NW1 2DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Infocus Public Networks Ltd. against the decision of the Council of the London Borough of Camden.
 - The application Ref 2009/2314/P, dated 15 May 2009, was refused by notice dated 7 July 2009.
 - The development proposed is a public payphone.
1. Eight other appeals have been made by the same appellants against refusals by the same local planning authority for identical proposals in various locations within the borough of Camden, and it is therefore appropriate that I deal with them together. The details of the other appeals are as follows:

Appeal B Ref: APP/X5210/A/09/2112784

22 Melton Street, London NW1 2EP

- The application Ref 2009/2315/P, dated 15 May 2009, was refused by notice dated 7 July 2009.

Appeal C Ref: APP/X5210/A/09/2112781

96 Euston Road, London NW1 2DB

- The application Ref 2009/1771/P, dated 26 March 2009, was refused by notice dated 22 May 2009.

Appeal D Ref: APP/X5210/A/09/2112748

137 Euston Road, London NW1 2AA

- The application Ref 2009/1770/P, dated 26 March 2009, was refused by notice dated 22 May 2009.

Appeal E Ref: APP/X5210/A/09/2112753

18 Woburn Place, London WC1M 0LN

- The application Ref 2009/1767/P, dated 26 March 2009, was refused by notice dated 22 May 2009.

Appeal F Ref: APP/X5210/A/09/2112776

72 Russell Square, London WC1B 5BA

- The application Ref 2009/1768/P, dated 26 March 2009, was refused by notice dated 22 May 2009.

Appeal G Ref: APP/X5210/A/09/2112754

25 Proctor Street, London WC1V 6NS

- The application Ref 2009/1774/P, dated 26 March 2009, was refused by notice dated 22 May 2009.

Appeal H Ref: APP/X5210/A/09/2112772

247 High Holborn, London WC1V

- The application Ref 2009/1772/P, dated 26 March 2009, was refused by notice dated 22 May 2009.

Appeal I Ref: APP/X5210/A/09/2112750

71 High Holborn, London WC1V 6EA

- The application Ref 2009/1773/P, dated 26 March 2009, was refused by notice dated 22 May 2009.
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Procedural matters

2. In a number of cases, the Council's description of the appeal site differs slightly from that given in the relevant application letter. In most cases, the appellants have adopted the Council's descriptions in the appeal forms, and as it seems likely that the Council's descriptions are either fuller or more accurate, I shall adopt them, as follows:

Appeal B – prefaced with "Grant Thornton House".

Appeal C – prefaced with "Outside the British Library".

Appeal D- "Outside 137-139 Euston Road".

Appeal E – postcode given as "WC1H 0LN".

Appeal F – prefaced with "Outside".

Appeal G – prefaced with "Outside Lion Court" and the postcode is given as "WC1V 6NS".

Appeal H – referred to as "247-261 High Holborn, London WC1V"

3. Where the description does not preface the address with the word "outside", I shall do so, for the sake of consistency and accuracy.

Decisions

Appeal A Ref: APP/X5210/A/09/2112782 – Outside 194 Euston Road, London NW1 2DA

Appeal C Ref: APP/X5210/A/09/2112781 – Outside the British Library, 96 Euston Road, London NW1 2DB

Appeal D Ref: APP/X5210/A/09/2112748 – Outside 137-139 Euston Road, London NW1 2AA

Appeal E Ref: APP/X5210/A/09/2112753 – Outside 18 Woburn Place, London WC1H 0LN

Appeal G Ref: APP/X5210/A/09/2112754 – Outside Lion Court, 25 Proctor Street, London WC1V 6NS

Appeal H Ref: APP/X5210/A/09/2112772 – Outside 247-261 High Holborn, London WC1V

4. I dismiss the appeals.
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Appeal B Ref: APP/X5210/A/09/2112784

Outside Grant Thornton House, 22 Melton Street, London NW1 2EP

5. I allow the appeal and grant approval under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 for the siting and appearance of a public payphone at land Outside Grant Thornton House, 22 Melton Street, London NW1 2EP in accordance with the terms of the application 2009/2315/P, dated 15 May 2009 and the plans submitted with it.

Appeal F Ref: APP/X5210/A/09/2112776

Outside 72 Russell Square, London WC1B 5BA

6. I allow the appeal and grant approval under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 for the siting and appearance of a public payphone at land Outside 72 Russell Square, London WC1B 5BA in accordance with the terms of the application 2009/1768/P, dated 26 March 2009 and the plans submitted with it.

Appeal I Ref: APP/X5210/A/09/2112750 – Outside 71 High Holborn, London WC1V 6EA

7. I allow the appeal and grant approval under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 for the siting and appearance of a public payphone at land Outside 71 High Holborn, London WC1V 6EA in accordance with the terms of the application 2009/1773/P, dated 26 March 2009 and the plans submitted with it.

Main issues

8. The main issues in all the appeals are:
- i) the effect of the proposals on the character and appearance of the area, and
 - ii) the implications of the proposals for crime and public safety.
9. There are additional main issues in respect of some of the appeals:
- i) Appeals A and H: whether the proposal would preserve or enhance the character or appearance of the Bloomsbury Conservation Area, and
 - ii) Appeal B: the effect of the proposal on the setting of the Bloomsbury Conservation Area
 - iii) Appeal E: the effect of the proposal on the safety and convenience of users of the footway,
 - iv) Appeal F: the effect of the proposal on the setting of the Bloomsbury Conservation Area and Russell Square Gardens, and
 - v) Appeal H: the effect of the proposal on the setting of a Grade II listed building.

Policy

10. The development plan for the area includes the saved policies of the Camden Replacement Unitary Development Plan (UDP). The appellants argue that development plan policies should not be taken into account in dealing with proposals for prior approval. However, the advice in paragraph 49 of the Appendix to Planning Policy Guidance Note 8: *Telecommunications* (PPG8) indicates that the inclusion of clear policies in development plans will help local planning authorities make speedy and informed decisions on applications which require prior approval. Although much of the advice in PPG8 is tailored to address mobile phone masts, there is nothing which suggests that it does not apply to all telecommunications development. Accordingly, I shall take the UDP policies into account.
11. Policy B1 deals with general design principles, seeking high standards of design. Policy B7 deals with conservation areas and seeks to ensure that development preserves or enhances the character or appearance of such areas. Policy B6 deals with listed buildings and amongst other things, seeks to ensure that the setting of such buildings is not harmed. Policy T3 aims to ensure that development makes satisfactory provision for pedestrians and cyclists. Policy T12 deals with works affecting highways. Policy SD1 concerns quality of life and, amongst other things, includes measures relating to fear of crime, security and crime prevention.
12. I have also been referred to part of Camden Planning Guidance 2006 which was subject to public consultation and approved by the Council in 2006; I afford it substantial weight. It sets out guidance on telecommunications on pedestrian footways, and seeks to ensure that such development respects the character and appearance of the area, does not appear as an incongruous feature, does not cause excessive visual clutter or obstruct the free flow of pedestrians.
13. The section dealing with Designing Safer Environments indicates that phone boxes can be seen in certain areas of the Borough as crime generators, and that in these areas the Council will consider whether the proposed location will have an impact on crime levels. I have also been referred to the Bloomsbury Conservation Area Supplementary Planning Guidance (SPG). It offers no advice on telecommunications development or development on footways, but is of general relevance in conservation areas.

Reasons

14. All of the proposed kiosks are identical. They are three-sided, glazed structures with a black metal frame, similar to bus shelters seen across the city. They measure about 2.1m in width, with one side 1.2m in width, and the other 0.9m. They are designed to allow wheelchair access.

Appeal A – Outside 194 Euston Road

15. The site is located outside of a large ornate office block, which is linked to another similar office, which is a Grade II building. The site is opposite the Courtauld Gallery, and in the northern part of the Bloomsbury Conservation Area. I consider that the building adjacent the site makes an important contribution to the character and appearance of the area.

16. Whilst to the east of the site there are some traffic signs, a street lamp and traffic lights, they are separated from the site of the proposed kiosk by a sizeable street tree, which is one in a line of similar such trees, and which are dominant features in the public realm.
17. The footway is wide and therefore I consider that in such circumstances, the kiosk would not appear cluttered. However, its modern appearance would jar with the imposing, grand architecture of the adjacent office building, and the rhythm of its features. The regularity of the line of trees adjacent the building reinforces this sense of rhythm which the kiosk would disrupt. I therefore consider that the proposal would fail to preserve or enhance the character or appearance of the conservation area.
18. The Council says that the Metropolitan Police have raised issues concerning telephone kiosks, although no representations appear to have been submitted about this particular appeal, or any of the others which are dealt with in this letter. The Council says that the police have reported that telephone kiosks have been a problem relating to drug-taking, criminal damage, advertising for sex workers, use as a toilet, street crime and robbery. The Council has provided no evidence that kiosks in the vicinity of the appeal sites have experienced such problems.
19. The appellants contend that anti-social behaviour is not a matter which falls to be considered under the ambit of "siting and appearance". Paragraph 13 of Annex 1 to PPG8 gives advice on factors involving siting, and includes "any other relevant considerations". Whilst I recognise that much of the advice is tailored to deal with telecommunications masts, there is nothing which indicates that it should not apply to other telecommunications development which requires prior approval. In my view, siting of telephone kiosks may have a direct bearing on crime and anti-social behaviour, and is therefore a relevant consideration which I shall take into account.
20. The Camden Planning Guidance about crime and phone boxes does not adopt the blanket approach which the Council appears to have used in this and the accompanying appeals. I consider that in line with the SPG advice, the individual merits of the proposals need to be considered.
21. The design of the kiosks means that one side is open, and the large areas of clear glazing would ensure that users would be more open to public view than more traditional designs, and I consider that this would lessen the risk of criminal or anti-social activities from taking place within them. However, I accept that, outside of conservation areas, one side may be used for advertising, and that would offer some screening for those inside the kiosks, which would negate some of the inherent design advantage.
22. I recognise that with any payphone kiosk there is some risk of its being mis-used for both anti-social and criminal purposes. This general approach to crime and security applies to all the appeals subject of this decision letter, and in this case, it adds to my reasons for dismissing the appeal.
23. I have weighed the harm that I have found against the advice in PPG8 which promotes the provision and growth of new telecommunications services. I have also taken into account that the proposal would enable the kiosk to be

accessed by wheelchair users, which traditionally designed kiosks cannot. I also recognise that it would provide a service to tourists, students and others. However, none of these factors outweighs the harm that I have found.

24. For the reasons given above I conclude that the appeal should be dismissed.

Appeal B – Outside Grant Thornton House, 22 Melton Street

25. The site lies outside a modern office block, not far from the vehicular exit from Euston Railway Station onto Melton Street. The office block windows are either filled with display material or show stored goods and equipment, and thus lack visual interest. Whilst the site is opposite a listed building and the boundary of the Bloomsbury Conservation Area, the width of Melton Street and the busy traffic it carries provide a strong degree of separation.

26. Although there is some street furniture in the vicinity of the site, including a traffic sign and street lamp, the footway is wide, and I consider that the kiosk would not create an excessively cluttered appearance. I also consider that the impact of possible advertising needs to be taken into account. Under the deemed consent provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, advertisements may be displayed on the glazed surface of one side of a telephone kiosk. I shall take this into account in assessing the likely impact of this proposal, and all the other appeal proposals subject of this decision, excepting those in conservation areas, where the deemed consent provisions do not apply.

27. Although the modern design of the kiosk and the advertising it would be likely to carry on one face would not be in keeping with the scale or design of the buildings in the conservation area, I consider that Melton Street provides a strong demarcation to the conservation area, and the quality of the buildings in the conservation area is not carried over onto this side of the road. The small scale of the kiosk in relation to the much larger adjacent Grant Thornton House would not make any significant visual impact on the character of the area. Accordingly, I consider that the proposal would not harm the setting of the conservation area. However, the addition of a further structure on the footway would contribute to clutter but the harm it would cause to character and appearance, and the extent of conflict with UDP policies dealing with such matters would be slight.

28. In terms of crime and security, I noted that there is a BT telephone kiosk not far away to the north, and I saw no signs of misuse of that kiosk, and this adds to my conclusion that the proposal would not cause significant harm in respect of crime and security.

29. Whilst I recognise that the kiosk would add to clutter, the harm it would cause is outweighed by the benefit of providing a new telecommunications facility, accessible by the disabled. For the reasons given above, I therefore conclude that the appeal should be allowed.

30. The Council has not suggested any conditions in respect of this appeal.

Appeal C - Outside the British Library, 96 Euston Road

31. The site forms part of the footway fronting the more modern western part of the British Library. It is located between a bus shelter and a pedestrian crossing and there are a number of items of street furniture in the locality including a traffic sign, lamp post, CCTV camera, and lights associated with the pedestrian crossing. There are also two large street trees nearby and display boards and display gantries in association with the British Library are found on or close to the low wall which borders the footway.
32. I consider that there is already a multiplicity of structures on what is a very busy stretch of footway, in a prominent location. I consider that the proposal would unacceptably add to a cluttered agglomeration of street furniture and, together with the likely advertising on one face, which would emphasise its prominence, would harm the character and appearance of the area, contrary to the aims of the policies which I have referred to above which deal with character and appearance.
33. The busy pedestrian and vehicular traffic would be likely to deter crime and anti-social activity (at least during the day) and the presence of a nearby CCTV street camera may also act as a deterrent. However, the prospect of the kiosk being mis-used adds to the harm that I have found which would be caused to character and appearance.
34. I have balanced the value of providing a new telecommunications facility which can be accessed by the disabled, but these benefits do not outweigh the harm that I have found. For the reasons given above I conclude that the appeal should be dismissed.

Appeal D – Outside 137-139 Euston Road

35. The appeal site comprises part of the footway outside a block of offices, on the southern side of Euston Road. Other offices lie to the east and a hotel to the west. Regularly spaced metal bollards line the kerbside, and there are traffic signs, street lamps and a bus stop some distance from the site. The site does not lie in or near a conservation area, and the architecture of the adjacent buildings lacks any special qualities. Whilst the kiosk would add slightly to street clutter, the harm that it would cause to the appearance of the area, and the degree of conflict with UDP policies dealing with character and appearance would be slight.
36. In respect of crime and security, there are three recessed doorways to the adjacent commercial properties. Recessed doorways are referred to in Camden Planning Guidance as providing an opportunity for crime. Representations from occupiers of the adjacent offices refer to existing problems of drug dealing, break-ins, and people sitting on steps and loitering. Although the payphone would be sited in the middle of the office frontage rather than in front of any of the recessed doorways, I consider that it is close enough to exacerbate the risk and fear of crime and safety for occupiers of the adjacent offices, contrary to one of the objectives of UDP Policy SD1, and the Council's SPG.

37. I also consider that there is force in objectors' arguments that the siting of the kiosk in the middle of narrow office frontage would harm the outlook from the offices and have a negative impact on the businesses.
38. I have balanced the value of providing a new telecommunications facility which can be accessed by the disabled, but these benefits do not outweigh the harm that I have found. For the reasons given above I conclude that the appeal should be dismissed.

Appeal E – Outside18 Woburn Place

39. The appeal site forms part of the public footway outside the Yialousa Greek Taverna restaurant. There is little street furniture in the area, although railings around a lightwell to the basement storey of an adjacent block and tables and chairs on the restaurant forecourt make the area look somewhat cluttered.
40. The proposed payphone would be located on the footway in front of the forecourt tables and chairs. There is a distance of about 2.9m between the edge of the kerb and the forecourt. Even with the kiosk sited on the edge of the carriageway as shown on the application plan, it would leave only 1.7m for pedestrians. This narrow space would exacerbate the crowded appearance and cluttered appearance, and leads me to conclude that the proposal would unacceptably harm the character and appearance of the area, contrary to the aims of the policies I have referred to above which deal with character and appearance.
41. Manual for Streets (MfS) indicates that in lightly used streets (such as those with a purely residential function), the minimum unobstructed width for pedestrians should generally be 2m. Camden's Planning Guidance on transport indicates that the minimum footway width in busy pedestrian streets should be 3m. In this case, Woburn Place is a well-used commercial and residential thoroughfare, and I would expect that at peak times, the footway in the vicinity of the site would be very busy. Whilst there would still be a reasonable space for pedestrians to pass, I consider that from time to time, the kiosk in such a position would cause an obstruction which would impede pedestrian flow. Although this would not cause serious harm to highway safety, it adds to my reasons for dismissing the appeal.
42. In terms of crime and security, the phone kiosk would be overlooked from a number of places, and I do not consider that it would pose a significant risk to users or those servicing the kiosk. However, I accept that with any payphone kiosk there is some risk of its being mis-used for both anti-social and criminal purposes, and I saw on my visit that the nearby BT box was being used for sex advertising, and smelt of urine. I have also been told by the neighbouring occupier that a previous public call box nearby had been used for drug dealing. These concerns add to my reasons for dismissing the appeal.
43. I have weighed the harm that I have found against the advice in PPG8 which promotes the provision and growth of new telecommunications services. I have also taken into account that the proposal would enable the kiosk to be accessed by wheelchair users, which traditionally designed kiosks cannot. I

also recognise that it would provide a service to tourists, students and others. However, none of these factors outweighs the harm that I have found.

44. For the reasons explained above, I conclude that the appeal should be dismissed.

Appeal F – Outside 72 Russell Square

45. The site lies on the eastern side of Russell Square Gardens, on the footway outside a ground floor bank, above which is a hotel, of unremarkable design. Whilst there are some traffic signs and street lamps, and a large London Plane tree nearby, I consider that the addition of the proposed kiosk would not result in an overly cluttered appearance, but I accept that it would cause some small harm to character and appearance. It would also restrict space for pedestrians, but not to a degree which would cause a serious obstruction or harm their safety.
46. Russell Square Gardens is a designated Garden of Special Historic Interest. However, it is well defined by enclosing railings. Moreover, the appeal site is separated from the gardens by a footpath and a busy four-lane road, one lane of which is divided from the others by railings. In my view, this physical separation is sufficient to ensure that the relatively small scale of the proposal would not harm the setting of the gardens. The site is also close to the boundary of the Bloomsbury Conservation Area, but again, the footway and adjacent buildings possess none of the architectural or historic interest of the buildings within the conservation area, and contribute little to its setting. Whilst the kiosk would add to street clutter, the harm to character and appearance, and the degree of conflict with UDP policies dealing with such matters, would be slight.
47. In terms of crime and security, the area is a busy one, outside a bank with CCTV cameras, and is well overlooked. I consider that the proposed kiosk would not pose a significant risk to users of the kiosk or those servicing it. However, I accept that with any payphone kiosk there is some risk of its being mis-used for both anti-social and criminal purposes.
48. Whilst I recognise that the kiosk would add to clutter and could cause some harm from possible anti-social activity, this is outweighed by the benefit of providing a new telecommunications facility, accessible by the disabled. For the reasons given above, I therefore conclude that the appeal should be allowed.
49. The Council has not suggested any conditions in respect of this appeal.

Appeal G – Outside Lion Court, 25 Proctor Street

50. The appeal site comprises an area of footway outside a modern office building, in use as a dental clinic. The ground floor windows of the clinic are used mainly for advertising or displays. The site is adjacent a one-way street of four lanes of traffic and modern offices lie on the opposite side. There is some street furniture and some advertising boards on the footway in the immediate vicinity of the appeal site, and a BT kiosk is sited to the south. I consider that the kiosk would add to street clutter, and would disrupt the appearance of the

line of kerbside tree planting nearby. The use of the kiosk for advertising would appear incongruous in a part of the street where there is little advertising presence in the public realm, and this adds to the harm that I have found, and leads me to conclude that the proposal would harm the character and appearance of the area, contrary to development plan policies.

51. The Council has indicated that the presence of an advertising board opposite the site would reduce the available footway width to below its minimum standard of 3m. However, at the time of my visit, a display board was located somewhat to the north of the site, and thus it is not inevitable that the kiosk would obstruct the footway in the manner envisaged by the Council. In any event, the size of the display board would ensure that any obstruction, should it occur, would be momentary and it would be unlikely to interfere significantly with either the convenience or safety of pedestrians.
52. In respect of crime and security, the site is overlooked by passing traffic and from offices on both sides of the road. I consider that the proposed kiosk would not pose a significant risk to users of the kiosk or those servicing it. However, I accept that with any payphone kiosk there is some risk of its being mis-used for both anti-social and criminal purposes, and I noted on my visit that the nearby BT kiosk had a plethora of cards advertising prostitution, was heavily littered and smelt of urine. This adds to my concerns on this issue.
53. I have weighed the harm that I have found against the advice in PPG8 which promotes the provision and growth of new telecommunications services. I have also taken into account that the proposal would enable the kiosk to be accessed by wheelchair users, which traditionally designed kiosks cannot. However, none of these factors outweighs the harm that I have found.
54. For the reasons explained above, I conclude that the appeal should be dismissed.

Appeal H – Outside 247-251 High Holborn

55. The site forms part of the public footway outside of the Chancery Court Hotel, a Grade II listed building. The building possesses a variety of interesting and ornate architectural features. The listing mentions, as a subsidiary feature, the balustraded parapets to the basement areas. These balustrades are closest to the appeal site, and I consider that the setting of the listed building embraces the adjacent footway.
56. The site is close to an existing concentration of street furniture which includes a bus shelter, two BT phone boxes, a ticket machine, a street lamp with a banner advertisement on it, a free standing bus stop sign, a bus lane sign and some litter bins. The proposed kiosk would be somewhat divorced from this existing group, being some 8.77m from the nearest items of street furniture, the two BT kiosks. The proposal would be to the fore of a more interesting and central part of the hotel façade. It would block views of the frontage and its modern utilitarian design would appear as a stark contrast to the scale and style of design of the hotel. I therefore conclude that it would seriously harm the setting to the listed building, contrary to UDP Policy B6.

57. The site is also located in the Bloomsbury Conservation Area. The wider area is characterised by a variety of buildings, of various styles and ages, including a number of notable examples, of which the Chancery Court Hotel is one. I consider that the proposal would add to a concentration of assorted items of street furniture which is out of place amongst the ornate and well designed buildings nearby. I therefore conclude that the proposal would harm the character and appearance of the conservation area, and would conflict with UDP Policy B7.
58. High Holborn is a busy commercial street, and the site is in full public view, overlooked from the road and surrounding buildings. I consider that the proposed kiosk would not pose a significant risk to users of the kiosk or those servicing it. However, I accept that with any payphone kiosk there is some risk of its being mis-used for both anti-social and criminal purposes, and this adds to my reasons for dismissing the appeal.
59. For the reasons explained above, I conclude that the appeal should be dismissed.

Appeal I – Outside 71 High Holborn

60. The site is located on the north side of High Holborn, near to the entrance to an office block. The site is not in or adjacent a conservation area. Although there is a pedestrian crossing some way to the east, there is little other street furniture in the area, limited mainly to sporadic street signs. The footway is fairly wide, and even though it experiences heavy footfall, I am satisfied that the kiosk would only cause very limited harm through additional clutter and intrusion in the street scene, or obstruction to pedestrians.
61. The site is in full view of passers-by and is overlooked from offices. I consider that the proposed kiosk would not pose a significant risk to users of the kiosk or those servicing it. However, I accept that with any payphone kiosk there is some risk of its being mis-used for both anti-social and criminal purposes, and this has the potential to cause some harm.
62. Whilst the kiosk would add to clutter and could cause some harm from possible anti-social activity, this is outweighed by the benefit of providing a new telecommunications facility, accessible by the disabled. For the reasons given above, I therefore conclude that the appeal should be allowed.
63. The Council has not suggested any conditions in respect of this appeal.

Other matters

64. In respect of a number of these appeals representations were received at application stage expressing concerns about patents and whether the appellants had sufficient funding in place to meet liabilities. The first of these concerns is not relevant to a planning appeal. Liability funding is a licensing matter for Ofcom, and does not affect my considerations.

Conclusions

65. For the reasons given above, and taking into account all other matters raised, I conclude that Appeals B, F and I should be allowed and that Appeals A, C, D, E, G and H should be dismissed.

JP Roberts

INSPECTOR