

Case Name: *Westminster City Council v Secretary of State for Housing Communities And Local Government* [2019] EWHC 176 (Admin) (05 February 2019)

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Commentary: A challenge to an Inspector's decision to grant prior approval for the installation of a new kiosk with an illuminated advertising panel in place of two existing telephone boxes. The claim was successful, and the Inspector's prior approval decision was quashed.

The first of the City Council's grounds was that grant of prior approval for this development was outside the powers conferred on the Inspector by the GPDO because the new kiosk was not for the purpose of the operator's electronic communication network, as per Class A of Part 16 of the GPDO, but instead was primarily for the purpose of advertising via the illuminated panel.

The Court held that the proposed kiosk did not fall within Class A of Part 16 due to the dual purpose of the development: only part of it was to function as a telephone kiosk for the purpose of the operator's network while another part of it was to be an electrified advertising panel for the purpose of displaying advertisements. For prior approval to be granted, the whole of the development must fall within the Class being relied on. The claim was therefore allowed on this ground.

However, the Court rejected the ground that the Inspector had wrongly ignored the City Council's arguments as to lack of need for the proposed kiosk. The Court was satisfied that the grant of permission in the GPDO precludes arguments about whether electronic communications networks, and the facilities required for their use, are "needed" in the public interest. It is only necessary to consider whether the development is needed for the network of the applicant operator.

Case summary prepared by Safiyah Islam