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Your ref: **APP/X5210/W/24/3342948**  
Our ref: 2023/3147/P & 2024/0594/A  
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Dear Ben White

**Appeal by JCDecaux UK Limited.**

**Site: Pavement at the junction of Shaftesbury Avenue and Earlham Street, London, WC2H 8JA.**

This presents the council's statement regarding the above appeals against the refusal of planning permission and advertisement consent dated 11<sup>th</sup> April 2024 (Ref: 2023/3147/P & 2024/0594/A) for; Replace an existing telephone kiosk with an upgraded telephone kiosk and Display of an LCD digital advertising screen attached to a replacement, upgraded telephone kiosk.

The following is to be read in conjunction with the officer delegated report. This sets out the history of relevant appeal decisions taken on board in deciding to refuse permissions.

## **1.0 Summary**

The Council's case is set out in detail in the attached Officer's Delegated Report, and it will be relied on as the principal Statement of Case. The report details the application site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire. In addition to the information sent with the questionnaire, I would be pleased if the Inspector could also take into account the following information and comments before deciding the appeal.

## **Site and designations**

1.1 The site is located on the southeast side of Shaftesbury Avenue at the junction with Earlham Street. It is located near Tottenham Court Road Underground Station and Leicester Square Underground Station on one of the busiest pedestrian corridors in the borough.

The site is located within the Seven Dials (Covent Garden) Conservation Area.

- 1.2 The site is also within a very busy road for both vehicular traffic and pedestrians alike. Existing street furniture along the pavement in close proximity comprises street signs, trees, A-boards and benches.
- 1.3 Existing footway space is a scarce resource and must be safeguarded for pedestrians both now and in the future to accommodate economic growth.
- 1.4 Planning permission and advert consent is sought for the installation of a kiosk with a large digital screen following removal of the existing kiosk. The existing kiosk has a footprint of 1.47 metres x 1.26 metres and are 2.5 metres high. The proposed kiosk would measure 1.2m wide, 1.4m in depth, and up to 2.513m high (being 2.463m high at the lower end of the kiosk's sloping roof). The kiosk would include a digital advertisement screen on its north-eastern elevation, facing west/southbound traffic on Shaftesbury Avenue. The digital advertisement screen measures 1.005m wide and 1.86m high and take up most of the north-eastern elevation.

## History

- 1.5 Planning Permission and Advertisement Consent were refused on 11<sup>th</sup> April 2024 for the reasons below:

### Planning permission:

1. *The proposed telephone kiosk, by reason of its location, size, detailed design, and proximity to other kiosks, would add to visual clutter and detract from the character and appearance of the street scene, and the setting of Seven Dials (Covent Garden) Conservation Area, contrary to Policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*
2. *The proposed telephone kiosk, by virtue of its location, size and detailed design, adding to unnecessary street clutter, would reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm, cause harm to highway safety and hinder pedestrian movement and have a detrimental impact on the promotion of walking as an alternative to motorised transport, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.*
3. *The proposed telephone kiosk, by reason of its scale, location and design would add unnecessary street clutter which would increase opportunities for crime in an area which already experiences issues with crime, therefore the proposal would be contrary to policy C5 (Safety and security) of the London Borough of Camden Local Plan 2017.*
4. *In absence of a legal agreement to secure the removal of the existing kiosks and a maintenance plan or the proposed kiosk, the proposal would be detrimental to the quality of the public realm, and detract from the character and appearance of the streetscene, contrary to policies D1 (Design), G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.*

### Advertisement consent:

1. *The proposed advertisement, by virtue of its location, scale, prominence, method of illumination, resulting in a sequential series of static digital images due to proximity to an existing kiosk would add visual clutter and contribute to an over proliferation of illuminated signage, detrimental to the*

*amenity of the streetscene and the setting of adjacent Camden Town Conservation Area, contrary to policies D1 (Design) and D4 (Advertisements) of the Camden Local Plan 2017.*

2. *The proposed advertisement, by virtue of its location, scale, prominence, and method of illumination, would introduce a distraction to traffic and pedestrians, causing harm to highway and public safety, contrary to Transport for London guidance, and to Policies A1 (Managing the Impact of Development), D4 (Advertisements) and T1 (Prioritising walking, cycling and public transport) of the Camden Local Plan 2017.*

1.6 The two images in Figure 1 (below) show visual representations of the proposed replacement telephone kiosks refused planning permission and advertisement consent 11/04/24.



Above: Perspective images of the proposed replacement telephone kiosk

1.7 At this appeal site, in addition to the replacement telephone kiosk previously refused and subject to this appeal, replacement telephone kiosks with integrated digital advertising panels, have previously been refused.

1.8 Advertisement consent (2017/5184/A) for *Display of a 6 sheet internally (back lit) LED illuminated advertisement panel to north-eastern elevation of existing public payphone* was refused on 13/12/2018.

1.9 The applicant appealed the decision under APP/X5210/Z/18/3211241. The inspector dismissed the appeal and concluded (see Appendix 2):

1. *Notwithstanding the finding on public safety, the identified harm in respect of the visual amenity of the area is an overriding consideration in this case. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.*

1.10 The Council's case for this current appeal is set out in detail in the attached Officer's Report and appendices 1-5, and it will be relied on as the principal Statement of Case. The Officer's report details the application site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

## **2.0 Status of Policies and Guidance**

2.1 In determining the above mentioned applications, the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The full text of the relevant policies was sent with the questionnaire documents. There is no conflict between the council's policies and the NPPF in relation to these appeals.

2.2 The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on the 3 July 2017 and has replaced the Local Development Framework Core Strategy and Camden Development Policies documents as the basis for planning decisions and future development in the borough. The process of updating the plan has begun. It is not envisaged that there would be any material changes to the current plan in relation to this appeal. The relevant Local Plan policies as they relate to the reasons for refusal are:

- A1 Managing the impact of development
- C5 Safety and Security
- C6 Access
- D1 Design
- D2 Heritage
- D4 Advertisements
- G1 Delivery and location of growth
- T1 Prioritising walking, cycling and public transport

2.3 The Council also refers to the following supporting guidance documents:

- CPG Design (2019) - chapters 2 (Design excellence), 3 (Heritage) and 7 (Designing safer environments)
- CPG Transport (2019) - chapters 7 (Vehicular access and crossovers) and 9 (Pedestrian and cycle movement)
- CPG Advertisements (2018) – paragraphs 1.1 to 1.15; and 1.34 to 1.38 (Digital advertisements)
- CPG Amenity (2018) - chapter 4 (Artificial light)

2.4 The Council also refers to the following legislation, policies and guidance within the body of the Officer's Report:

- Seven Dials (Covent Garden) Conservation Area Statement 1998
- Camden Streetscape Design Manual
- Digital Roadside Advertising and Proposed Best Practice (commissioned by Transport for London) March 2013
- Design of an accessible and inclusive built environment. External environment - code of practice (BS8300-1:2018 and BS-2:2018)
- Town and Country Planning (Control of Advertisements) (England) Regulations 2007

- Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013

### **3. Comments on grounds of appeal**

#### **Ground a) that planning permission should be granted.**

3.1 The appellant's statement is summarised in italics and addressed below:

1. *The Appellant considers the LPA's claim that the proposal will lead to clutter, is unfounded and illogical. The proposal does not seek to increase the amount of furniture rather to update existing equipment with a more contemporary version of the call box and using modern materials and technologies. The assessment of the earlier proposal (2021/2107/P and 2021/3140/A, granted by appeal APP/X5210/W/22/3290317, 14/11/2022) to replacement the unit entirely with a modern Hub unit and LCD screen was found to be acceptable in planning terms without any suggestion that this type of technological upgrade would result in harm to visual amenity of public safety. It is unreasonable therefore, and flies in the face of the 2022 decision, that the Council persists in the unsupported claim that such harm would arise should this proposal be granted.*

#### **Response to point 1:**

The Council accepts that there is an existing telephone kiosk in the pavement and the proposal would provide for a replacement structure of a similar nature. The Council also acknowledges that decisions for 2021/2107/P and 2021/3140/A allowed under appeal APP/X5210/W/22/3290317, provide for a replacement kiosk at the site.

However, since that decision there have been material changes in the form of other appeal decisions which continue to support the Council's view that such structures which are centred around the provision of a large digital screen are harmful to the streetscene and in this case the wider conservation area. In addition, the Council has served 19 Breach of condition notices 19 phone kiosks in Tottenham Court Road which were proven to be no longer required for telecommunication purposes. These existing kiosks had low call figures, were not maintained and showed signs of ASB. All these notices were complied with and demonstrate that the existence of a kiosk which may no longer be required should not be used as a starting point for further harmful development.

Whilst the replacement structure is of a comparable scale to the existing structure, its design and provision of a large digital screen results in the proposing being a visually dominant and an incongruous addition. It would continue the existing, unnecessary visual clutter and would reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm. Further, the detailed design, size and large illuminated display panel of the proposed kiosk would serve to heighten the appearance of the structure considerably more, making it even more conspicuous than the existing kiosk which it would replace.

In appeal decisions for Tottenham Court Road in 2023 the Planning Inspector noted that 'the proposals include the removal of existing phone kiosks. Whilst this would result in the freeing up of space and the removal of old-fashioned and generally unattractive features, if the phone kiosks are no longer being utilised there could be scope for their removal notwithstanding the applications the subject of these appeals'.

This concern was previously highlighted by an inspector in the Tottenham Court Road appeal cases (REF APP/X5210/W/18/3195370), see Appendix 3, where in 13 cases the inspector agreed with the Council's concerns about the addition of street clutter whether the sites were or were not located inside a conservation area or affecting the setting of a listed building.

Furthermore, in 11 of the cases the inspector agreed that the impact on pedestrian movement was unacceptable.

In appeal ref APP/X5210/W/22/3297265, in September 2023 see Appendix 4, for a site located within a conservation area, the Inspector noted that in the absence of any similar large digital advertisements ....[the [proposals] would introduce an alien feature that would draw attention to itself and away from the impressive buildings across the road, to the detriment of the setting of the Charlotte Street Conservation Area. The Inspector considered that the impact of this would be exacerbated as a result of the proposed advertisements, the very purpose of which would be to draw attention to themselves. The large digital panels would appear at a height in line with, as well as above and below, the vision of passers-by and would draw the eye to such an extent that they would appear as unduly dominant features.

In appeal ref 3297333 and 3297334 (Appendix 4), the Inspector considered that the proposed phone kiosk with large digital screen would introduce an alien feature that would appear so incongruous as to detract from the historic qualities of the Bloomsbury Conservation Area.

In appeal ref: 3297336 and 3297337 (Appendix 4) the Inspector noted that 'with its large dimensions and impactful appearance, together with the proposed digital advertisement screens, designed to draw attention to themselves, would appear incongruous. The harmful impact of this would be exacerbated as a result of the proposed Street Hub and advertisements being situated in a prominent location close to the pavement edge, away from any other such tall and attention-drawing feature'.

In all cases where the Inspector identified harm to the conservation area above the Inspector concluded that the harm arising would be localised and in respect of the significance of the heritage asset, would be less than substantial. Public benefits may arise from the proposal in terms of access to free WiFi and related information. However, in this case, the public benefits identified do not amount to something that outweighs the harm identified.

Additionally, the Planning Inspector concluded in an appeal decision to provide advertising to a kiosk outside 297 Euston Road, London NW1 3AQ (APP/X5210/Z/18/3204104, dated October 2018) that, 'Due to its bulk and siting, the kiosk erodes the existing openness beyond the row of trees, and due to its depth and width, it disrupts the largely unrestricted routes of pavement users by the row of trees (see Appendix 5). Reinforcing the Councils concern that kiosks add clutter to the footpaths removing useable pedestrian space.

In a similar appeal decision, an inspector concluded in a recent appeal decision dismissed on 14/11/2022 (ref APP/X5210/W/22/ 3290309 & 3290310) in a relatively uncluttered area at 29 Tottenham Court Road Street (see Appendix 6) that:

*The area of the site is densely developed, surrounded by mostly modern buildings of a substantial scale. Although the removal of the existing kiosk is proposed, the replacement unit would stand in a location that is remote from other large items of street furniture and would thus serve to extend the existing jumbled appearance of this part of the footway into an area that is currently not cluttered to the same degree.*

Lastly, the following observation in the 2018 appeal decision at the application site (APP/X5210/Z/18/3211241) regarding visual amenity, is highlighted:

*There is limited on street advertising in the locality and despite commercial premises occupying many of the nearby ground floor units, illuminated signage is minimal. This is reflective of the guidance in the CS which specifies that internally illuminated box signs are unacceptable and generally signage should be non-illuminated or externally illuminated. The restrained approach to advertisements is a distinguishing element of the character of this part of the CA.*

*Given the restrained approach to advertisements and owing to its prominent position, illumination and display design, it would appear as an unduly dominant and visually incongruous feature in the locality. It would draw attention away and detract from the positive contribution that No 144 [Shaftesbury Avenue] makes to the CA.*

The context of the existing environment for which this observation by the planning inspector was made, remains relatively unchanged in the present day. The above finding by the planning inspector remains applicable to the kiosk and associated LED screen sought for approval under this application. It is supported by the above appeal decisions.

The Council acknowledges that the proposed structures would include facilities such as defibrillator, public messaging and CCTV. Whilst weight is given to some of the benefits, for the refusal reasons they do not outweigh the harm caused to the character and appearance of the streetscene, public safety, the loss of footway and the impact on the public realm is not justified.

The appellant has failed to address the cumulative impact from the proposals to have two other existing kiosks, within 100m of the site, which won't be removed as a part of this proposal.

The Inspector's is respectfully requested to also note at this point that the proposed kiosk would be larger than those refused in various locations in Camden in 2020 (see Appendix 7) and subsequently dismissed on appeal. The kiosks measured 1.096m (W) x 2.499m (H) x 0.762m (L), and with a display area of 1.53sqm.

The appellant has made no effort to respond to the vast appeal history (see site history section of the officer's report) for these types of digital structures where the Council's concerns about impact of digital advertising and the cumulative impact was support and emphasised by the Planning Inspectorate. The Appellant has provided no evidence of why advertisement panels either in principle or of this scale are necessary.

- 2. The Appellant notes that under the earlier proposal (2021/2107/P and 2021/3140/A, granted by appeal APP/X5210/W/22/3290317, 14/11/2022) the Inspector found that the pavement was more than sufficient to enable pedestrians to freely move along it without obstruction and endangerment. The replacement structure will sit within an area usually considered an appropriate zone for furniture as outlined in TfL guidance and other guides on designing the public realm.*

## **Response to point 2:**

The proposed Kiosk is replacing an existing kiosk, despite its size it still impacts on the amount of useable footpath in terms of its size and use, thus adding clutter to the streetscene. As outlined above in appeal decisions for Tottenham Court Road 5<sup>th</sup> September 2023 the Planning Inspector noted that 'the proposals include the removal of existing phone kiosks. Whilst this would result in the freeing up of space and the removal of old-fashioned and generally unattractive features, if the phone kiosks are no longer being utilised there could be scope for their removal notwithstanding the applications the subject of these appeals'.

Regarding the location, the proposed telephone kiosk would be 1.1 wide. The plan submitted indicates the footway width to be 3.85m on Shaftesbury Avenue, with this widening out to approximately 4.5m between the kiosk and the edge of the footway on Earlham Street (at the junction of Earlham Street and Shaftesbury Avenue). Despite this exceeding the recommended minimum width for high footfall locations (of 3.3m for a footway with high pedestrian flows (see Appendix B of Transport for London guidance document titled 'Pedestrian Comfort Guidance for London'), the location of the proposed phone kiosk still creates an obstruction due to the bulk of

the development. It is also noted the footway significantly narrows further north on Shaftesbury Avenue after the kiosk. The location of the kiosk prevents there being a spacious, uncluttered pedestrian environment at the junction of Earlham Street and Shaftesbury Avenue. The location of the kiosk only subverts the potential for any future place-making opportunities at this key junction, and forces pedestrians further off the edge of the Shaftesbury Avenue pavement at a location where the pavement starts to significantly narrow with another stream of pedestrian flow coming from Earlham Street.

Therefore this is considered to be insufficient for a footway and the proposal would therefore impede/obstruct pedestrian movement and sightlines along the footway while constituting an unnecessary hazard to pedestrians, especially pedestrians with visual impairments.

Transportation colleagues were consulted for the previous application at the site, 2021/2107/P and 2021/3140/A, for a similar width replacement kiosk, and concluded that the proposed telephone kiosk being located outside of the established street furniture zone, would encroach significantly into the effective footway width available for pedestrian movement (i.e. the pedestrian desire line), as per the existing situation. The proposed telephone kiosk would therefore obscure sightlines along the footway significantly while also constituting a significant impediment/obstruction to pedestrian movement along the pedestrian desire line. This would be a particular problem for pedestrians with visual impairments (e.g. blind and partially sighted) who rely on clear and unobstructed pedestrian routes. The proposed telephone kiosk would therefore constitute an unnecessary obstruction/impediment and a hazard for blind or partially-sighted people. As such, the introduction of a kiosk is considered to have significant pedestrian and road safety implications in this location contrary to Policies A1 and T1, as well as, TfL guidance.

In this location there is an existing kiosk within relative close proximity to the application site. Therefore the Council disagrees and considers that the Kiosk impact on the public realm is not justified.

Overall, Shaftesbury Avenue is one of London's busiest retail streets and experiences high levels of traffic, with busy pavements, meaning that visitors, residents and businesses are exposed to crowded footways, in particular at peak times and during summer months. A replacement telephone kiosk at the site would only exacerbate the existing congestion problems by providing for a more permanent structure, over a period when pedestrian footfall at this location is only expected to increase. The existing kiosk was likely established by virtue of permitted development rights, which have since been removed by government legislation. The existing kiosk is nearing the end of its useful life and it would not be appropriate to provide for a replacement structure, particularly in respect to adverse transportation effects, for the reasons cited above.

- 3. The use of the telephony equipment will follow the guidance in the management plan, which was created in consultation with the Met Police Design Out Crime Unit. The Met Officers were instrumental in drafting the Management Plan on the use of the units and reporting process for abuse. There is no indication that the Council consulted the Met Police DOC unit on this current appeal proposal. As to matters of the maintenance of the apparatus, the schedules and commitments to maintaining and cleaner the equipment is included in the management plan.*

### **Response to point 3**

The Council did consult with the Metropolitan Police and a response was received on 5/04/2024.

As part of their objection, the Metropolitan Police raised the following matters:



- *This is a busy and active junction. There have been numerous thefts and robberies around this location. The crimes could not be attributed to the presence of the phone kiosk but the local crime pattern should be considered.*
- *I have reviewed the attached documents available on the online public portal. The design of the kiosk does not appear to have shelving or any ledge where items could be put. This is a good feature. There should be no charging docks around this location. A mobile phone on charge/display could be very attractive to the opportunistic thief.*
- *There appears to be a WIFI symbol on the design of the kiosk. If there is a proposal to have WIFI will this be free? How will misuse of this be monitored? Can this feature be deactivated if issues should arise or usage restricted? Can certain persons/devices be prevented from using this service?*
- *The proposed advertising screen maybe prone to criminal damage as this is a feature of the crime statistics for this policing ward. Will the installation have CCTV to record any abuse?*

The comments raised by the Metropolitan Police were taken into account in the officer's delegated report and were one of the factors taken into consideration in the assessment of design and crime matters relating to the replacement kiosk.

A number of issues have been raised by the Metropolitan Police Crime Prevention Design Advisor in relation to replacement telephone kiosks. In particular it has been noted that existing telephone kiosks within the London Borough of Camden have become 'crime generators' and a focal point for anti-social behaviour (ASB). In relation to the locations of the kiosks around Camden there is a common theme among the crime statistics. All these areas have a major issue with street crime and in particular antisocial behaviour, pickpocketing and theft from person. These are areas of significant footfall with both commuters, local residents and numerous tourists. The design of these kiosks does not reduce the risk of these types of crime from occurring.

Due to the openness of the kiosk any mobile phones on display at this location (either in hand or on charge) will be vulnerable to the opportunist phone snatch. With the new locations mostly closer to the carriageway this form of crime can be carried out by moped or bicycle. The large façade where the advertising screen is proposed will act as an opportunity for concealment and increase the risk of theft and assault. The basic design flaws with the structure to accommodate the large digital screen also creates an opportunity for crime, in addition to the ASB associated with the use of the kiosks themselves. Whilst these issues have been raised previously, and supported at appeal the Appellant has failed to make any meaningful changes to the structure to address them.

Regarding maintenance, the Metropolitan Police Crime Prevention Design Advisor have considerable experience of the ASB associated with the older traditional kiosks and this new generation of kiosk. In an Appeal decision ref: APP/X5210/W/20/3253878 and 3253540 for a kiosk outside nos. 216-217 Tottenham Court Road, the Inspector noted 'the appellants' proposed maintenance regime would be likely to reduce the effects of such ASB'. However, the form of the structure provides a degree of screening for such behaviour and would be likely to encourage it. In the same appeal decision the Inspector notes ...'the substantial form of the kiosk, with screening panels would reduce natural surveillance and so use of the kiosk to screen illegal activities such as drug dealing and use could increase, notwithstanding the maintenance regime proposed. Bringing these matters together I find that the proposed kiosk would, overall, have a harmful effect on pedestrian movement and public safety'. This would increase opportunities for crime in an area which already experiences issues with crime, therefore the proposal would be contrary to Policy C5 (Safety and security) and CPG Design.

In appeal decision APP/X5210/W/22/3297273 (dated 11<sup>th</sup> October 2022) (see Appendix 8) for a replacement telephone kiosk at a similar location in central London, the planning inspector

noted the following in relation the replacement kiosk being susceptible to vandalism and reservations that the kiosk would be adequately maintained:

*However, the Police say that the area is prone to criminal activity and the main reason why the existing BT kiosks are something of an eyesore is that they have been vandalised and poorly maintained. If the proposed new kiosk were to be vandalised or to fall into similar disrepair, it would become even more of an eyesore than the existing kiosks due to its increased height, width, and general prominence. Based on my own observations of the site and the written evidence, it sees highly likely that it would be prone to vandalism. I have considered the BT Product Statement, which indicates that the kiosk would be regularly cleaned and checked for damage. Although I have no reason doubt that this is the current intention, circumstances can change over time and there is no legal mechanism in place to ensure that an appropriate maintenance plan is implemented in perpetuity.*

*On this basis, I am unable to determine that the proposal would have a positive effect on the street scene in this location. Indeed, without a mechanism in place to ensure that the new kiosk is properly maintained, it is probable that it would fall into a similar level of disrepair as the existing kiosks. It would then become an unsightly feature which would significantly distract from the quality of the local street scene. This adds to my concerns about the visual prominence of the structure. In reaching this decision, I am mindful that the proposed kiosk would become a permanent feature in a particularly busy part of Tottenham Court Road where it would be highly visible.*

In addition, given the poor state of the existing kiosk and a number of other kiosks in Camden, the Council does not have confidence that the applicant would ultimately adhere to the maintenance regime and undertake regular maintenance and upkeep of the kiosks. The Council's experience with existing older kiosks which are in poor condition, are that the advertisements remain in place and change on a regular basis despite the condition of the kiosk. Therefore there is no impetus, other than enforcement action being undertaken by Council, to comply with the maintenance strategy as the advertising panel, which Council asserts is the driving function of the kiosk, could still remain in operation independent of the condition of the remainder of the kiosk.

Therefore the Council considers that the proposal would increase opportunities for crime in an area which already experiences issues with crime, therefore the proposal would be contrary to Policy C5 (Safety and security) and CPG Design.

4. *The Council suggestion that a legal agreement is required to ensure the removal of the existing call box is considered wholly unnecessary as the implementation of any PP and AC could not be implemented without first removing the existing telephone box.*

#### **Response to point 4**

Reasons for refusal 4 could be addressed by an appropriate planning obligation secure via a legal agreement to secure these matters to ensure that all old kiosks are removed in a timely fashion and to secure a suitable management plan.

The Council is seeking to work with the appellant to prepare a legal agreement which addresses this reason for refusal to secure the removal of all kiosks and a management plan. Reg 122 of the CIL Regulations outline statutory tests to determine whether a planning obligation is capable of being a reason for granting planning permission.

Obligations must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

In this case, the need to secure removal of all old kiosks located on land outside of the appellant's control and outside the red line of the application site to ensure the reduction in kiosk numbers is achieved is necessary. Conditions can only lawfully be used to control matters on land within the developer's control. The need for a management plan to ensure that the kiosk is regularly cleaned, ensure that the phone element remains operational (so the kiosk does not become only a digital advertisement hoarding), a complaints procedure and process for repairs to mitigate some of the potential harm from these additions.

The management plan goes beyond simply securing a maintenance regime but should include other measures to manage and mitigate against anti-social behaviour and allow ongoing collaboration with the Council and the Metropolitan Police. The management plan should be secured as a 'live' working document which would allow measures to be adapted to changing circumstances and would give the flexibility to allow for the operator to make submissions and request amendments to the initially approved management plan as and when matters arise that require attention without the need for a formal application to agree amendments. Conversely, should the Council be made aware of any issues relating the kiosks there is an expectation that amended arrangements should be agreed swiftly, without the need for a formal application to agree amendments. This flexibility and responsiveness are considered a key aspect of the management plan and can only be achieved by s106 legal agreement.

The applicant has subsequently advised they are unwilling to enter a s106 agreement to secure the removal of old kiosks or secure a management plan.

## **Recent appeal decisions**

The Officer's report and appendices 2-8 sets out the significant number of appeal decisions in relation to the principle of phone kiosks with digital advertisements replacing older stock which is relevant to this appeal. The Appellant has failed to address these key issues either in the design of their structure or the appellant statement. The Council has provided Appeal Decisions where the Planning Inspectorate has supported the Council's planning policies and guidance in relation to the following issues:

- Street clutter, reduction of footway widths and hampering pedestrian movement.
- Impact of digital advertisements
- Where required minimum clear footway are provided paragraph 8.10 of CPG7 states that works affecting highways should avoid unnecessary street clutter; design of footways should not include projections into the footway, unnecessary and cluttered street furniture or other obstructions; and any minimum standards for footway widths should not be used to justify the provision of unnecessary clutter.
- Availability of other telephone kiosks in the vicinity.
- Size and design preventing a discrete or high-quality form of street furniture
- Where kiosks have become 'crime generators' and a focal point for anti-social behaviour, increasing opportunities for crime in an area which already experiences issues with crime.

## **Conclusion**

Having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss the appeal.

If the Inspector is minded to allow the appeal, the Council's suggested conditions are below. In addition, should a legal agreement be completed regarding removal of existing kiosks and maintenance, this would be requested.

If any further clarification of the appeal submissions are required, please do not hesitate to contact Brendan Versluys on the above direct dial number or email address.

Brendan Versluys

Senior Planner - Planning Solutions Team

Supporting Communities Directorate

London Borough of Camden

## **Appendix 1 – Suggested conditions**

### Planning permission

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans;

Communication Hub Management Plan dated June 2023; Annexe to Hub Unit Management Plan; A02298 (5 pages); Appendix A - Kiosk Detail

Reason: For the avoidance of doubt and in the interest of proper planning.

3. The structure hereby permitted shall be removed from the land on which it is situated as soon as reasonably practicable after it is no longer required for telecommunication purposes.

Reason: In order to minimize the impact on the appearance of the streetscene and the highway in accordance with the requirements of policies D1 and T3 of the London Borough of Camden Local Plan 2017.

4. All surface materials should match the existing adjacent surface materials.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

## Advertisement consent

1. Any advertisement displayed and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: - As required by regulation 2(1) and Schedule 2 of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

Reason: - As required by regulation 2(1) and Schedule 2 of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: - As required by regulation 2(1) and Schedule 2 of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: - As required by regulation 2(1) and Schedule 2 of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

5. No advertisement shall be sited or displayed so as to (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military); (b) obscure, or hinder the ready interpretation of any traffic sign, railway signal or aid to navigation by water or air; or (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: - As required by regulation 2(1) and Schedule 2 of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

6. The advertisement display shall be statically illuminated and the intensity of the illumination of the digital signs shall not exceed 2500 candelas per square metre during the day and 400 candelas per square metre during the hours of darkness in line with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements' 2015. The levels of luminance on the digital signs should be controlled by light sensors to measure the ambient brightness and dimmers to control the lighting output to within these limits.

Reason: To ensure that the advertisement does not harm the character and appearance of the streetscene and does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies A1, D1, D4 and T1 of the London Borough of Camden Local Plan 2017.

7. The digital sign shall not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements).

Reason: To ensure that the advertisement does not harm the character and appearance of the streetscene and does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies A1, D1, D4 and T1 of the London Borough of Camden Local Plan 2017.

8. The minimum display time for each advertisement shall be 10 seconds.

Reason: To ensure that the advertisement does not harm the character and appearance of the streetscene and does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies A1, D1, D4 and T1 of the London Borough of Camden Local Plan 2017

9. The interval between advertisements shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including fading, swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction.

Reason: To ensure that the advertisement does not harm the character and appearance of the streetscene and does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies A1, D1, D4 and T1 of the London Borough of Camden Local Plan 2017

10. No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.

Reason: To ensure that the advertisement does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies A1, D4 and T1 of the London Borough of Camden Local Plan 2017

11. The footway and carriageway on the Transport for London Road Network (TLRN) and Strategic Road Network (SRN) must not be blocked during the installation and maintenance of the advertising panel. Temporary obstruction during the installation must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians, or obstruct the flow of traffic.

Reason: To ensure that the advertisement does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies A1, D4 and T1 of the London Borough of Camden Local Plan 2017.

12. No music or sound shall be emitted from the advertisements.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 of the London Borough of Camden Local Plan 2017