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## Appeal Decision

Site visit made on 5 June 2018

**by F Rafiq BSc (Hons), MCD, MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 23<sup>rd</sup> July 2018**

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### **Appeal Ref: APP/X5210/W/17/3180682**

### **Pavement outside 85 Chalk Farm Road, London, NW1 8AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
  - The appeal is made by Mr Tom Fisher (Euro Payphone Ltd) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2017/2487/P dated 22 March 2017 was refused by notice dated 21 June 2017.
  - The development proposed is the installation of a telephone kiosk on the pavement.
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### **Decision**

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance, of the installation of a telephone kiosk on the pavement at Pavement outside 85 Chalk Farm Road, London, NW1 8AR in accordance with the terms of the application Ref 2017/2487/P, dated 22 March 2017, and the plans submitted with it.

### **Procedural Matters**

2. I have taken the description of development from the decision notice as this more accurately describes the proposal subject of this appeal. Reference has been made by various parties to there not being sufficient information to assess the proposal. The Council proceeded to determine the prior approval application and I am also satisfied, based on the submitted written information, location plan and kiosk drawing, that there is adequate information to proceed to determine it.
3. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed payphone kiosk (also known as a public call box) under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), subject to prior approval by the local planning authority of siting and appearance. The appellant applied to the Council on that basis. The Council determined that prior approval was required and refused for the siting and appearance of the telephone kiosk.
4. The Council have made reference to Core Strategy Policies CS5, CS11, CS14 and CS17 and Policies DP16, DP21, DP24 and DP25 of the Council's Development Policies. The principle of development is established by the

GPDO and prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO includes no requirement that regard be had to the development plan. The provisions of the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. I, therefore, take account of the policies of the development plan and (any related guidance including policies in emerging plans) in so far as they are a material consideration relevant to matters of siting and appearance.

5. The National Planning Policy Framework (Framework) deals with supporting high quality communications infrastructure, including applications for prior approval, and requires that local planning authorities must determine applications on planning grounds. As the principle of development is established by the GPDO, considerations such as need for the telephone box are not a relevant matter.
6. The appeal site is situated close to a Conservation Area and a listed building. The Framework makes clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight attaches to the asset's conservation; the more important the asset, the greater that weight should be. Significance can be harmed through development within an asset's setting.

### **Main Issue**

7. The main issue is whether or not approval should be given in respect of the siting and appearance of the development, having regard to the character and appearance of the area, the setting of nearby heritage assets and the effect upon highway and pedestrian safety.

### **Reasons**

8. The proposed free standing telephone kiosk would have a broadly rectangular form with dimensions of 1.32m by 1.11m and a height of 2.45m. The telephone kiosk would be constructed with a powder coated metal frame and laminated glass. It would have an open side to allow wheelchair access and solar panels would be included at roof level.
9. The application site forms part of the pavement on the northern side of Chalk Farm Road. It is located close to the Regents Canal Conservation Area and Roundhouse Theatre, which has been identified as a Grade II\* listed building.
10. The immediate area where the kiosk is proposed, is clear from other street furniture, but the proposal would be seen in the context of nearby cycle stands, bins and lampposts. It would however be sufficiently separate from other street furniture to not give rise to a cluttered appearance, albeit its larger scale to these other items and being somewhat larger than a standard telephone kiosk.
11. I recognise that the proposal would have a metal frame and large elements of glazing, but on the northern side of Chalk Farm Road, in the immediate surroundings to the appeal site, is a modern mixed-use building. The kiosk's modern and functional appearance would not appear as a substantial physical obstacle in this context. Although in my view, the appeal site does form part of the setting of the Conservation Area and listed building, the effect on their setting is lessened by the presence of, and the separation with the road. I

- recognise the limited height and the transient nature of traffic, and also note the reference the Council makes to the surrounding fascia signs being flush to the building's façade. However, I was able to see the Grade II\* listed Roundhouse Theatre on my site visit, and from my observations, the proposal would not be prominent in long views of the listed building. I do not therefore consider that the proposed kiosk would be unduly harmful to the setting of the listed building or the nearby Conservation Area. Its siting and appearance would also not detract from the character and appearance of the area.
12. Concern has been raised in relation to the siting of the kiosk adjacent to an existing telephone box giving rise to safety issues, but I was not able to see any such existing telephone box that the Council make reference to on my site visit. The proposed kiosk, which would be largely glazed, would not unacceptably reduce sight lines (including of CCTV) or casual surveillance, as has been stated. I do not therefore consider that the siting and appearance of the kiosk would be harmful in terms of crime and anti-social behaviour.
  13. The Council have identified concerns in relation to the wheelchair accessibility of the proposal. They state that the appellant has referenced an older version of the British Standards, and that the kiosk would fail to comply with the current British Standard (BS) 8300, which includes guidance on payphones outside of buildings. I have not been provided with the full details of BS8300 but it has been stated that the proposed telephone controls would not be within the correct height range from the floor (0.75m-1m). Whilst this may be the case, I consider that the height of the telephone controls at 1.5m, would still be within the reach of a wheelchair user. Furthermore, it is not disputed that the open design of the kiosk would allow for wheelchair access. As such, overall, despite the shortcomings identified, I consider that the siting and appearance of the proposal would not be unduly harmful in this respect.
  14. The proposed kiosk would result in the loss of 1.8m of footway, but the Council have not set out how the clear footway would be reduced below the minimum threshold. The footway is according to the Council, around 5.3m wide, discounting the area used for parking. Following the proposal, there would remain around 3.5m. Taking into account the higher pedestrian flows that the Council refer to, the Council's Streetscape Design Manual sets out a minimum of 3m (in busy pedestrian streets), with the Transport for London's Pedestrian Comfort Guidance For London, setting out a 5.3m overall footway width (in high flow locations). I was able to visit the appeal site in the lunchtime busy period referred to by the Council, and was able to see some pedestrian movements where the appeal site is located. However, due to the presence of other street furniture and trees, which the proposal would broadly align with, most pedestrians used those sections of the footway closer to the adjacent buildings. Whilst there may not have been a Pedestrian Comfort Level Assessment undertaken, and it may be the case that pedestrian volumes increase in the future, I consider the footway would remain sufficiently wide to not impede pedestrian movements.
  15. The appeal site would be adjacent to parking bays that are partly sited on the footway. The proposal would have dimensions that are greater than other street furniture, but from the information available before me, there would be sufficient room to not impede people getting in and out of their vehicles. The longer parking bays also allow for the appropriate parking of vehicles. There is

- also no substantive evidence before me that the proposed kiosk would interfere with any signals, cause a visual obstruction or unduly affect visibility splays.
16. The Council have made reference to the proposed Chalk Farm and Primrose Hill scheme which are intended to create a high quality place and improve pedestrian comfort. They also refer to an option to create a cycle track. I have not been provided with any details of these schemes or their current status. Given the width of the pavement, I have no reason to consider that the siting of the proposal would be unacceptable in this regard.
17. Reference has been made to appeal decisions on other sites but I am not aware of the full circumstances and I can confirm that I have considered this appeal on its own merits.
18. Concerns have been expressed regarding the proposed kiosk being used for advertisements. The construction of a kiosk and the display of advertisements are distinct and separate matters requiring different applications. The appeal relates to the construction of a telephone kiosk only and not any advertisement consent that may otherwise be required. I have determined the appeal on that basis and, therefore, the matter of advertisements has not influenced this decision.
19. I, therefore, conclude that the proposed kiosk with respect to its siting and appearance would not harm the character and appearance of the area or highway and pedestrian safety, which justifies the grant of prior approval.

### **Conditions**

20. The grant of prior approval for the kiosk would be subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO. Those conditions include an implementation timescale, accordance with the details submitted and removal of the structure/apparatus when no longer required for electronic telecommunications purposes.

### **Conclusion**

21. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed and prior approval granted subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO.

*F Rafiq*

INSPECTOR



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## Appeal Decisions

Site visit made on 29 September 2020

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 16 November 2020

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### **Appeal A Ref: APP/X5210/W/20/3254037**

#### **Telephone Kiosk outside 197 Kentish Town Road, London NW5 2JU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Richard Wilson and New World Payphones against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/3996/P, dated 5 August 2019, was refused by notice dated 27 March 2020.
  - The development proposed is replacement of existing telephone kiosk with new telephone kiosk.
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### **Appeal B Ref: APP/X5210/H/20/3252962**

#### **Telephone Kiosk outside 197 Kentish Town Road, London NW5 2JU**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Richard Wilson and New World Payphones against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/4481/A, dated 5 August 2019, was refused by notice dated 27 March 2020.
  - The advertisement proposed is illuminated digital advertisement display integrated within replacement telephone kiosk.
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## Decisions

### **Appeal A Ref: APP/X5210/W/20/3254037**

1. The appeal is dismissed.

### **Appeal B Ref: APP/X5210/H/20/3252962**

2. The appeal is dismissed.

## Procedural Matters

3. The applications were submitted together on a single application form covering both planning permission and consent to display advertisements. As set out above there are two appeals on this site relating to different aspects of the same proposal. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The Council has referred to development plan policies in respect of Appeal B. As advertisement proposals can only be considered on the basis of amenity and public safety considerations, I have taken into account relevant development

plan policies so far as they relate to these issues, but in themselves they have not been determinative from the point of view of my overall conclusion on the advertisement appeal.

5. Subsequent to the determination of the application the appellants have submitted an amended plan (PY3292/025 rev A) which reflects changes to street furniture in the vicinity of the proposal. I have determined this appeal having regard to the layout of the street scene as it was at the time of my site visit.

### **Main Issues**

6. Since submitting the appeal the Main Parties have entered into an Agreement made under Section 106 of the Town and Country Planning Act 1990, Section 111 of the Local Government Act 1972, Section 278 of the Highways Act 1980, Section 1 of the Localism Act 2011 and the New Roads and Streetworks Act 1991 (the Agreement). Through the Agreement, the proposal would replace the existing kiosk and remove three others. The Agreement would also make provision for a new street tree to be provided for each of the kiosks removed. Further provision is made for the cleaning and upkeep of the replacement kiosk to an agreed standard. The Agreement also makes provision for the Council to have access to the advertising panel and provide a wayfinding screen to display Council messages, including emergency messages. I have taken the Agreement into account as part of my consideration of both appeals and I am satisfied that it is both acceptable and necessary.
7. I consider that, through the Agreement, the Council's concerns relating to the fourth reason for refusal in the Decision Notice relating to Appeal A are addressed.
8. The main issues in relation to Appeal A are, therefore, (i) the effect of the proposal on the character or appearance of the site and the immediate area with particular reference to 189-197 Kentish Town Road, 205-211 Kentish Town Road and 207-223 Kentish Town Road, which are Locally Listed Buildings (LLBs), and 213-215 Kentish Town Road which is a Grade II Listed Building (LB), and (ii) the effect of the siting of the proposed development on pedestrian movement and public safety.
9. In relation to Appeal B, the control of advertisements is exercisable only with respect to amenity and public safety. In this case, the main issue is the effect of the proposed advertisement on amenity.

### **Reasons**

10. The site is located outside 189-197 Kentish Town Road, an LLB currently containing an empty shop unit and a convenience store, on the footway of Kentish Town Road. Kentish Town Road is a wide street with commercial uses on both sides. The range of shops and services provided and the high-density housing in the area combine to result in Kentish Town Road having the character of a busy urban street. The buildings exhibit a mix of architectural styles, including modern infill, generally with more modern shop fronts below.
11. The significance of 213-215 Kentish Town Road derives from the architectural features of its façade to Kentish Town Road, as an example of an arcade shop front typifying a style common in the 1930s, reflective of trading practices at that time



12. The significance of the LLBs derives from their architectural compositions, attractive appearance and grouping.
13. There is a wide footway between the shop frontage and the vehicular carriageway in the vicinity of the site. In the immediate locality there is limited street furniture, of a contemporary design, including an existing telephone kiosk, bicycle racks, litter bins, street lighting columns, and a street tree in a large planter. Advertising on the commercial units includes some internally illuminated signage but is generally low key and incorporates static images. Overall the area has a pleasant sense of spaciousness despite its busy urban character.
14. The Council, as part of their consideration of the application, requested usage figures for the kiosks that would be removed or replaced. Whilst this demonstrated a low level of usage, a degree of usage was nonetheless present, including that by persons accessing emergency and other support services. Further, the development would provide a type of structure that could be conveniently accessed by those with a mobility impairment and thus would meet a clear need for its users. The proposal would, therefore, address a degree of need in the area and the kiosks to be replaced are not, on the basis of the evidence before me, entirely redundant.
15. Paragraph 116 of the Framework makes it clear that decisions on applications for telecommunications equipment should be made on planning grounds and that decision-takers should not seek to “prevent competition between different operators... [or]... question the need for the telecommunications system”.
16. The appellants argue that the increased use of the mobile phone has resulted in a decrease in use of public telephone boxes, and that this usage is further reduced by the lack of inclusivity and anti-social behaviour issues associated with the design of their current kiosk. They cite an increase in usage of their kiosks following upgrade and I have no reason to dispute this.
17. The proposed development would result in a kiosk of L-shaped cross section with a roof being installed close to the footway edge, with the shorter side closest to the kerb and the longer side at right angles to the flow of traffic. It would have an advertising panel on the longer side.
18. There is dispute between the main parties regarding the need for the structure to be of the form and scale proposed. Notwithstanding that an alternative structure could physically incorporate the proposed telecommunications equipment, the design incorporates a roof and a side panel which would provide shelter from the elements for customers whilst retaining two open sides to allow access for those with a mobility impairment and improve natural surveillance. The degree of shelter that would be provided would be a reasonable balance against the need to provide accessibility.
19. An existing kiosk, of more angular, enclosed design and an uncared-for appearance, at the same location would be removed. Notwithstanding this, as a consequence of its height, width, dark colour, illuminated screen and separation from other street furniture of a similar scale, the proposed kiosk would be a prominent feature in the street scene.
20. This proposal is one of several in the wider area of Camden seeking to rationalise kiosk provision and reduce the number of kiosks overall. In

association with the removal of the existing kiosk the replacement one would not significantly affect the sense of spaciousness, nor, given its setting against more modern shop fronts and the mix of architectural styles, would its simple, modern design incorporating elements referencing traditional kiosks, detract from the character and appearance of the site and the surrounding area which forms part of the setting for the LB and the LLBs.

21. The visual impact of the kiosk would be increased by the large illuminated advertising panel, which would be a dominating feature on the structure. The panel, close to the kerblines, would be a prominent standalone illuminated feature. The panel would be unrelated to the services provided by the adjacent commercial units and would appear prominent in views along the street both during the day and in hours of darkness.
22. The luminance level and rate of image transition could be controlled by condition. Nevertheless, the appeal proposal would, as a result of the internal illumination associated with the panel, its position adjacent to the kerb and changing images, create a discordant feature within the street scene directly in front of 187-197 Kentish Town Road and within vistas encompassing the LB and LLBs. Whilst such forms of advertisement are becoming increasingly familiar on the street scene, it would, nonetheless, create an additional, discordant feature within the street scene, adding visual clutter and hence adversely affect the way in which these buildings are experienced from the public realm. To this extent, significant harm would be caused to the amenity of the area.
23. Even without displaying an advertisement, the illuminated screen would be a discordant feature within the street scene adding unnecessary visual clutter and hence would harm the settings of the LB and LLBs.
24. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in making decisions on planning applications that may affect a listed building or its setting, special attention is paid to the desirability of preserving the building or its setting. In addition, Paragraph 193 of the Framework requires when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
25. Whilst, within the wider area, there are other examples of illuminated advertisements mounted on street furniture near the kerblines, including digital advertisements, these are not located within the context of this particular street frontage.
26. No pedestrian count data has been provided by either party in support of their case. However, the proposal site lies on a busy shopping street and is likely to experience high volumes of footfall.
27. With regard to the current layout of the street and footway width the replacement of the kiosk would provide a marginal reduction in width of available footway. It would, therefore, still fall short of the recommended minimum width for high footfall locations contained within Appendix B of the Transport for London (TfL) guidance document entitled 'Pedestrian Comfort Guidance for London'. The Camden Streetscape Design Manual -2005- identifies that there are benefits to overall passenger flow by grouping street furniture in bunches. The kiosk would remain in line with the planter nearby



and would maintain the current separation from it. In these circumstances, the minor increase in obstruction to the passage of pedestrians would, of itself, be unlikely to engender additional delay or encouragement to leave the footway and enter the carriageway.

28. The kiosk would be positioned close to an automatic telling machine (ATM) within the frontage of the convenience store. The Metropolitan Police Crime Prevention Design Advisor has identified that, associated with their current low levels of use, telephone kiosks within the Borough have become crime generators and focal points for anti-social behaviour (ASB). With regard to Kentish Town Road the potential use of the structure by street beggars has been highlighted.
29. Whilst it would be possible for beggars to sit within or adjacent to the proposed kiosk, increasing the obstruction associated with it, this could be equally true of, and have the same result as, the existing layout of street furniture. Whilst the orientation of the kiosk and its open nature would provide a degree of shelter from the elements, this is, in this case, unlikely to materially increase the occurrence of begging as the position of the kiosk would remain effectively unaltered.
30. Further concerns have been raised regarding other ASB such as urinating against or within the structure and vandalism/graffiti. By replacing an existing kiosk there would be no net increase in opportunities for such behaviour. The more open nature of the proposed kiosk compared to that of the existing one may actively discourage such behaviour. The replacement of the old, uncared for kiosk and proposed improved maintenance regime would be likely to reduce the effects of ASB. However there is no substantive evidence before me to suggest that this would be to a significant degree.
31. Levels of illumination from the kiosk could be controlled through a suitable planning condition and I have little substantive evidence before me to demonstrate that the substitution of the kiosk structures and relocation would have an adverse effect on CCTV coverage or reduce natural surveillance and so use of the kiosk to screen illegal activities such as drug dealing and use would, therefore, be unlikely to be measurably altered.
32. Other kiosks that it is proposed to remove are situated some distance from the appeal site and are not visible from it. Such de-cluttering of the streetscape is supported within the TfL Streetscape Guidance Fourth Edition -2019 Revision 1. Their removal would have the benefit of fewer structures in their local streetscape, and I have no reason to object to their removal. However, there is limited information before me about the kiosks which would be removed, including the quality of the public realm at those sites, or whether the streets within which they are located attract a high level of footfall. Therefore, I attach limited weight to any potential benefits that could arise from this.
33. The appellants identify that the inclusion of the advertisement panel is necessary to facilitate the proposed upgrading of their kiosk stock. However, there is little evidence before me to demonstrate that the inclusion of advertising in the form proposed is the only way of achieving this end and so I give this argument limited weight.
34. For the reasons outlined above, I conclude that in respect of Appeal A the development would harm the settings of the LB and the LLBs and the character

- and appearance of the wider street scene. The proposal would therefore not comply with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990. The development would also be contrary to Policy D3 of the Kentish Town Neighbourhood Plan -2016- and Policies D1 and D2 of the Camden Local Plan -2017- (the Local Plan) in as much as these require development to respect local context and character and preserve or enhance the historic environment and heritage assets.
35. The above identified harm would be less than substantial taking into account paragraph 196 of the Framework. The Framework directs that where a development proposal would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal. I deal with this matter below.
36. However, I find that the replacement kiosk would not have a harmful effect on pedestrian movement and public safety. It would therefore be in accordance with Policies G1, A1, C5, C6 and T1 of the Local Plan in as much as these, amongst other things, promote safer streets and public areas which are fully accessible, easy and safe to walk through and provide high quality footpaths and pavements that are wide enough for the number of people expected to use them and resist development that fails to adequately address transport impacts affecting communities and the existing transport network.
37. For the reasons outlined above, I conclude that in respect of Appeal B the proposed digital advertising panel would be harmful to the settings of the LB and the LLBs and hence to amenity and therefore would not accord with Policies D1, D2 and D4 of the Local Plan in as much as these require development to respect local context and character, preserve or enhance the historic environment and heritage assets and to avoid contributing to an unsightly proliferation of signage in the area and so are material in this case.
38. In respect of Appeal A, the kiosk would provide a number of services to members of the public, which I understand to be at no cost to end users, including local information provided by the Council and travel and emergency information. The proposal would replace a kiosk of unattractive appearance and make provision for its maintenance and upkeep. The proposal would also remove three other kiosks, thus reducing overall street clutter within the Borough. For each of the kiosks removed a payment would be received to enable the planting of a street tree within the Borough, which would provide wider environmental benefits.
39. The Framework supports the expansion of electronic communication networks which are essential to economic growth and social well-being. Notwithstanding that there are other facilities in the area that provide similar services, the proposal would provide some minor public benefit through increased competition. In addition, the kiosks inclusive design (including accessibility and shelter for the mobility impaired) weighs moderately in favour of the proposal. Whilst these are positive matters to weigh in the overall planning balance, they are not of sufficient magnitude to outweigh the less than substantial harm caused by the kiosk to the settings of the LB and LLBs.
40. In respect of Appeal B, the advertisement screen would provide local information provided by the Council and emergency information. The Framework supports the expansion of electronic communication networks which are essential to economic growth and social well-being. Whilst these are

positive matters to weigh in the overall planning balance, they are not of sufficient magnitude to outweigh the harm caused by the advertisement to the amenity of the area.

### **Other Matters**

41. I note that the main parties engaged in a prolonged process of pre-application discussions, however, such participation, though laudable, is not a guarantee of success. I further note that the appellants have expressed concerns that the Council has been inconsistent in their decision making process. That, however, is a matter between the appellants and the Council.
42. My attention has been drawn by both of the main parties to other appeal decisions in regard to telephone kiosks and advertisements in other local planning authorities. However I have little information before me to draw a comparison between these cases and the proposals before me, particularly in regard to the design of the proposed kiosk and advertisement screen in the context of their setting. In any case, I have determined these appeals on their individual merits and with regard to current planning legislation.

### **Conclusions – Appeals A & B**

43. For the above reasons I conclude that Appeal A and Appeal B should be dismissed.

*I Dyer*

Inspector



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## Appeal Decision

Site visit made on 26 July 2024

**by S Poole BA(Hons) DipArch MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 August 2024**

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### **Appeal A Ref: APP/X5210/W/24/3341451**

**Existing Phonebox, O/S 221 Camden High Street, Camden, London NW1 7HG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Martin Stephens of JCDecaux UK Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref is 2023/2990/P.
  - The development proposed is the replacement of an existing telephone kiosk with an upgraded telephone kiosk
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### **Appeal B Ref: APP/X5210/Z/24/3341453**

**Existing Phonebox, O/S 221 Camden High Street, Camden, London NW1 7HG**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Martin Stephens of JCDecaux UK Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref is 2023/4643/A.
  - The advertisement proposed is the display of an LCD digital advertising screen attached to a replacement, upgraded telephone kiosk
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## Decisions

1. Appeals A and B are dismissed.

## Procedural Matters

2. The pair of appeals relate to the same overall proposal. They differ only in that appeal A is for planning permission and appeal B is for express advertisement consent. I have considered each part of the proposal on its individual merits. However, to avoid duplication I have dealt with the two parts of the proposal together, except where otherwise indicated.
3. In respect of appeal B the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) require that applications for the display of advertisements are considered in the interests of amenity and public safety, taking into account the provisions of the development plan, so far as they are material, and any other relevant factors.
4. As descriptions of the proposals are not provided on the application forms I have used the descriptions given on the appeal forms in the banner headings above.

## **Main Issues**

5. The main issues for appeal A are:

(i) the effects of the proposal on the character and appearance of the street scene and the setting of the Camden Town Conservation Area;

(ii) whether the proposal would increase opportunities for crime and anti-social behaviour; and

(iii) the effects of the proposal on highway safety, with particular regard to pedestrian movement.

6. The main issues for appeal B are the effects of the proposal on the amenity of the area and on public safety.

## **Reasons**

### *Background*

7. The appeal site comprises an area of pavement occupied by a telephone kiosk that is situated in front of a row of shops close to the junction between Camden High Street and Inverness Street. It is within a relatively wide section of pavement close to the road with a tree and refuse bin to one side and a timber seating box on the other. The site is between Camden Underground Station and Camden Lock, which is a vibrant, busy shopping and tourist area, and it is a short distance outside the Camden Town Conservation Area.

8. The appeal proposal would comprise the removal of the existing redundant kiosk and its replacement by a new kiosk which would be similar in respect of its overall dimensions and layout. Unlike the existing kiosk, which includes a display area for printed advertisements on the side facing Inverness Street, the proposal would include a digital advertisement screen measuring about 1m wide by 1.86m in height, which would display static images.

9. Planning permission and advertisement consent were granted at appeal in 2022<sup>1</sup> for development described as the replacement of the current enclosed telephone kiosk with an open access Communication Hub. The advertisement consented in 2022 comprised an LCD portrait screen to be used to show static illuminated content. This scheme is similar to the appeal proposal in respect of the siting and nature of the advertisement but would be significantly smaller in respect of its footprint as it does not include a kiosk. I attach significant weight to my colleague's observations in respect of the 2022 appeal where relevant to the matters before me.

10. The existing kiosk was in a poor state of repair at the time of my visit and did not appear to be functioning either as a communications facility or for advertising purposes. The Council has advised that the kiosk was erected without planning approval and has become immune from enforcement action.

11. I am conscious that if this appeal is dismissed there is a possibility that the existing redundant kiosk could remain in place. However, I consider there to be a far greater likelihood that that scheme for an open access Communication Hub and digital advertisement screen would be implemented given the commercial advantages for the appellant of doing so. For this reason, the

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<sup>1</sup> appeal decisions APP/X5210/W/22/3290364 and APP/X5210/H/22/3290365

scheme granted planning permission and advertisement consent in 2022 represents a fall-back scenario to which I attribute significant weight.

#### *Character, Appearance and Amenity*

12. Whilst the appeal proposal would be similar in size and layout to the redundant kiosk it would replace, it would have a far larger footprint than the fall-back scheme and would feature a larger advertisement display. The combination of the size of the kiosk, and size and illuminance of the display panel, would result in an overall form of development that would be prominent in views looking along Camden High Street towards Camden Lock, particularly at night. In addition, it would lead to an over concentration of street furniture and visual clutter that would have an unacceptable effect on the street scene and the setting of the nearby CA.
13. Due to its siting, size and design the proposal that is the subject of appeal A would have an unacceptable effect on the character and appearance of the street scene. It therefore fails to comply with Policies D1 and D2 of the London Borough of Camden Local Plan (2017) (LP). Amongst other matters, the former seeks to secure high quality design that respects local context and character and integrates well with the surrounding streets, whilst the latter aims to resist development outside a conservation area that causes harm to the character or appearance of a conservation area.
14. I note my colleague's comments in respect of the illuminated digital advertising panel approved in 2022. However, the appeal proposal would include a wider and taller panel which would be more obtrusive and prominent in the street scene. Due to its siting, size, design and the nature of the illuminance the advertisement that is the subject of appeal B would have an unacceptable effect on amenity in the area.

#### *Crime and Anti-Social Behaviour*

15. The Metropolitan Police has advised that the appeal site forms part of one of the major hotspots in Camden Town for drug dealing and there are pre-existing issues with crime and antisocial behaviour. In particular, the Police advise that drug dealers use street furniture to conceal their activities from CCTV cameras.
16. The proposal for which planning permission is sought (appeal A) would create a more enclosed structure than the fall-back scheme and would therefore provide greater scope for anti-social behaviour and the concealment of street crime. Due to its siting and design it would therefore increase opportunities for crime and anti-social behaviour and consequently fails to accord with LP Policy C5, which promotes safer street and public places and the development of pedestrian friendly spaces.

#### *Highway Safety*

17. Camden High Street is a busy shopping and tourist location that experiences high levels of pedestrian activity particularly in the evenings and at weekends. The section of pavement that includes the appeal site is wide and includes a tree, refuse bin and wooden seating cubes within the portion of pavement closest to the road. The appeal proposal would be sited close to the road between the tree and the seating cube. It would therefore be outside the primary zone of pedestrian activity and would not result in any greater impediment to the flow of pedestrians than would result from the



implementation of the fall-back scheme. In addition, I note that there is a very wide pavement on the opposite side of the road.

18. The appeal site is close to the junction between Camden High Street and Inverness Street. The latter is a pedestrianised market street and therefore levels of vehicular traffic turning into the High Street from this road are low. In addition, as the High Street is one-way drivers exiting Inverness Street would be looking towards the station as opposed to the appeal site so would not be distracted or have critical sightlines impeded by the proposal.
19. I am therefore satisfied that the proposals that are the subject of appeals A and B would not have an unacceptable effect on public and highway safety. As such they accord with LP Policies G1, A1, C6 and T1, which together seek to ensure that development proposals are of a high quality, adequately address transport impacts, and are accessible.

### **Other Matters**

20. The Council's reasons for refusal refer to the absence of a legal agreement to secure the removal of the existing kiosks and a maintenance plan. As the appeals are being dismissed there is no need to consider this matter.

### **Conclusion**

21. For the reasons set out under the first and second main issues above, and having regard to all other matters raised, I conclude that appeals A and B should fail.

*S Poole*

INSPECTOR



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## Appeal Decisions

Site visits made on 4 July 2019

**by Andrew Tucker BA (Hons) IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 July 2019**

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### CASE DETAILS

#### All appeals

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).
  - The appeals are made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden.
  - In each case the development proposed was originally described as 'call box'.
  - All the applications were dated 21 January 2018.
- 

#### **Appeal A Ref: APP/X5210/W/18/3211477**

##### **Pavement outside 55 Fortune Green Road, London NW6 1DR**

- The application Ref 2018/0349/P, was refused by notice dated 16 March 2018.
- 

#### **Appeal B Ref: APP/X5210/W/18/3211508**

##### **Pavement outside 511 Finchley Road, London NW3 7BB**

- The application Ref 2018/0346/P, was refused by notice dated 15 March 2018.
- 

#### **Appeal C Ref: APP/X5210/W/18/3211538**

##### **Pavement outside 255 Finchley Road, London NW3 6LU**

- The application Ref 2018/0352/P, was refused by notice dated 16 March 2018.
- 

#### **Appeal D Ref: APP/X5210/W/18/3211459**

##### **Pavement outside Swiss Cottage Library, 88 Avenue Road, London NW3 3HA**

- The application Ref 2018/0344/P, was refused by notice dated 15 March 2018.
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#### **Appeal E Ref: APP/X5210/W/18/3211475**

##### **Pavement outside Adelaide Road corner Finchley Road, London, NW8 6NN**

- The application Ref 2018/0345/P, was refused by notice dated 16 March 2018.
-

**Appeal F Ref: APP/X5210/W/18/3211476**

**Pavement outside 17-24 Dobson Close, London NW6 4RS**

- The application Ref 2018/0348/P, was refused by notice dated 16 March 2018.
- 

**Appeal G Ref: APP/X5210/W/18/3211455**

**Pavement outside 27-28 Chalk Farm Road, London NW1 8AG**

- The application Ref 2018/0342/P, was refused by notice dated 15 March 2018.
- 

**Appeal H Ref: APP/X5210/W/18/3211504**

**Pavement outside 241 Camden High Street, London NW1 7BU**

- The application Ref 2018/0341/P, was refused by notice dated 15 March 2018.
- 

**Appeal I Ref: APP/X5210/W/18/3211472**

**Pavement outside 42 Highgate Road, London NW5 1NT**

- The application Ref 2018/0339/P, was refused by notice dated 16 March 2018.
- 

**Appeal J Ref: APP/X5210/W/18/3211469**

**Pavement outside 19 Highgate Road, London NW5 1LB**

- The application Ref 2018/0338/P, was refused by notice dated 16 March 2018.
- 

**Appeal K Ref: APP/X5210/W/18/3211452**

**Pavement outside 53-57 Highgate Road, London NW5 1TL**

- The application Ref 2018/0337/P, was refused by noticed dated 15 March 2018.
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**Decisions**

1. All the appeals are dismissed.

**Procedural Matters**

2. In the application form associated with each appeal the proposal is described as a call box. However, in all other correspondence, including the Council's decisions and appellant's submissions, the units are referred to as kiosks. For the sake of clarity, I will use the term kiosk in this decision.
3. As set out above, this decision relates to 11 appeals. Although the appeal proposals relate to different sites, the design of the kiosk is the same for each appeal, and the proposals are so closely related in all other respects that, to avoid duplication, I have dealt with the appeals together in one decision.
4. The site addresses have been taken from the Council's decision notices, as these more accurately describe the location of the proposed kiosks.

5. During the course of these appeals there has been a judgement<sup>1</sup> concerning prior approval for telephone kiosk development. The main parties were given the opportunity to provide comments on the relevance of this judgement to their respective cases. I have taken into account any comments received.
6. I note that a non-illuminated poster advert could be displayed on the glazed surface of the kiosk, and indeed see that an advert is displayed on one of the existing kiosks as illustrated in the appellant's submissions. However, having carefully considered the evidence including the proposed design, in terms of the structure, features and materials, I am satisfied that they do not constitute a dual purpose. They are solely for the purpose of the operator's electronic communications network and would fall within the permitted development rights regime. In all these appeals only the siting of the kiosks is being considered and the appellant is not seeking advertisement consent for any of the proposals.
7. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(3) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of the appeals has been made on the same basis.
8. On 24 July 2018, after the Council determined the applications, the revised National Planning Policy Framework (the Framework) was published. The Government published an amended version on 19 February 2019. Part 16, Class A of the 2015 GPDO does not require regard to be had to the Framework, however its policies are capable of being a material consideration. Its policies in relation to telecommunications have not been significantly altered such as to prejudice the case of either party by taking it into account.
9. The Council refers to development plan policies in its refusal reasons. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance.
10. The Framework supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of the GPDO, and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network is permitted development. Therefore, matters such as the need for the development are not at issue in these appeals.
11. In common with all of the appeals the Council is concerned about the accessibility of the kiosk design for users in a wheelchair. I am however not satisfied that this matter relates to either the siting or appearance of the kiosks, and therefore it would not be appropriate for me to consider this matter further.

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<sup>1</sup> Westminster CC v SSHCLG & New World Payphones Ltd [2019] EWHC 176 (Admin)

12. The appellants refer to an appeal decision<sup>2</sup> where the Inspector did not consider the potential for anti-social behaviour to be relevant to a kiosk proposal. The decision does not set out how the Inspector reached this conclusion. I am satisfied that such matters are very much related to the siting of a kiosk and am therefore satisfied that I should take this into account.

### **Main Issues**

13. The main issues are:

- 1) In all cases, the effect of the siting and appearance of the proposed kiosks on the character and appearance of the area, taking into account the setting of listed buildings and conservation areas where applicable, and the pedestrian environment, and
- 2) In the case of appeals A, B, F and I, the effect of the siting of the kiosk on the safe and efficient operation of the highway.

### **Reasons**

14. Information submitted shows that the kiosks would have a footprint that is roughly square, measuring 1125mm by 1325mm. The kiosks would be 2600mm high. The rear face of the kiosks would be the wider dimension and would be fully enclosed, with a telephone unit on the inside face and a toughened glass face to the outside. The front face would be open without a door, and the side walls would only occupy approximately half of the length of each side. The structure would have an unpainted steel frame, with steel casings and polycarbonate and glass panels. The form would be plain, simple and functional, without any proposed colouring, lettering or illumination.
15. It is noted that the appellant's intention is to provide a new network of telephone kiosks which would have a uniformity of design. However, this is undermined by evidence submitted which suggests that the design has been superseded since the applications were submitted. Furthermore, at my visit to 50-60 Blackfriars Road, to view the example of an existing kiosk that the appellant has already installed, as referred to in the appellant's submissions, I found that the kiosk had been removed in its entirety.

#### *Appeal A - Pavement outside 55 Fortune Green Road*

16. This proposal relates to a wide area of pavement outside a row of shops and other businesses, in a busy mixed-use area. The kiosk would sit on the outer part of the pavement, alongside an existing cycle rack and lamp post and close to a small street tree. In terms of the appearance of the unit it would stand adjacent to an existing slim street furniture zone, made up of two modest elements. Alongside these, owing to the height and width of the structure, the kiosk would be visually dominant and intrusive, and would detract from the contribution the street tree makes to the character of this part of the streetscene.
17. Owing to the low canopy of the existing tree, pedestrians are already forced to move towards the outer or inner parts of the pavement. The kiosk would

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<sup>2</sup> APP/X5990/A/12/2187244

further restrict this space, which would have an adverse impact on pedestrian desire lines and the usable pavement width.

18. The kiosk would be sited close to an existing vehicle access. This would reduce visibility for drivers emerging from this access in a northerly direction.
19. The Council refer to the effect of this kiosk on the setting of the nearby West End Green Conservation Area. This area is however sufficiently distant to the south of the site that its setting would not be adversely affected. Furthermore, I am not convinced that the proposed kiosk would increase opportunities for crime or anti-social behaviour.
20. Although I have found that the proposed kiosk would not harm the setting of the conservation area or increase opportunities for crime or anti-social behaviour, these matters are not sufficient to outweigh the harm I have found in relation to the character and appearance of the area, the pedestrian environment and the safe and efficient operation of the highway. Accordingly, appeal A should be dismissed.

*Appeal B - Pavement outside 511 Finchley Road*

21. The site is in a busy and densely populated mixed-use area, with a row of shops immediately adjacent to the site. This kiosk would be sited on an area of pavement that is wide in terms of the distance between the front of the buildings and the outer edge of the pavement but is significantly restricted by a row of concrete bollards fronting the buildings, which push pedestrians towards the outer part of the pavement.
22. The kiosk would stand between a mature street tree, road sign and traditional letter box and would be very close to the West End Green Conservation Area. The mature street trees and traditional items of street furniture such as the post box contribute positively to the setting of this designated area. Owing to the height and width of the structure and its modern design and appearance, the kiosk would be visually dominant and intrusive, and would detract from the contribution the street tree and letter box make to the character of the area and setting of the adjacent conservation area.
23. Owing to the width of the kiosk, the width of pavement would be significantly reduced. The kiosk would be wider than the existing tree and other items of street furniture, thereby restricting pedestrian flow in a busy area close to a junction.
24. The existing street tree already restricts visibility for vehicles emerging from the junction onto Finchley Road, and I note that the junction is traffic light controlled. On this basis I am satisfied that the kiosk would not harm the safe and efficient operation of the highway. Furthermore, I am not convinced that the proposed kiosk would increase opportunities for crime or anti-social behaviour.
25. Although I have found that the proposed kiosk would not harm highway safety or increase opportunities for crime or anti-social behaviour, these matters are not sufficient to outweigh the harm I have found in relation to the character and appearance of the area and the setting of the adjacent conservation area, and the pedestrian environment. Accordingly, appeal B should be dismissed.



*Appeal C - Pavement outside 255 Finchley Road*

26. This site is located in a very busy commercial area, adjacent to the entrance of a large entertainment complex housing restaurants, shops and a cinema. The kiosk would stand between a row of cycle racks and an existing double phone kiosk. Beyond the existing double kiosk is a bus stop. The street furniture here is well contained in a zone alongside the pavement edge. However, the addition of the kiosk would add a bulky piece of street furniture to an area that already has a number of large items. Although I cannot take into account the need for the kiosk within the narrow considerations of siting and appearance, the kiosk would look poor sited alongside the existing double kiosk especially as its appearance would be wholly different even though its function would be the same. As such the proposed kiosk would harm the character and appearance of the area.
27. The kiosk would be considerably wider than the existing double kiosk and cycle racks that it would sit between. This would have some impact on the flow of pedestrians in this busy area, and would reduce the amount of clear space available for people to gather adjacent to the entrance of the busy entertainment complex, this harming the pedestrian environment.
28. I am however not convinced that the proposed kiosk would increase opportunities for crime or anti-social behaviour.
29. Although I have found that the proposed kiosk would not increase opportunities for crime or anti-social behaviour, this matter is not sufficient to outweigh the harm I have found in relation to the character and appearance of the area and the pedestrian environment. Accordingly, appeal C should be dismissed.

*Appeal D - Pavement outside Swiss Cottage Library*

30. This site is located alongside the long elevation of the grade two listed Swiss Cottage library. It has strikingly simple elevations, which are dominated by projecting vertical concrete fins. The public realm alongside the building in the context of the appeal site is set out in an appropriately simple way, with a low wall and yew hedge immediately against the building, fronted by a wide section of pavement that is bound by a row of street trees at its outer edge. A bus shelter stands in this area alongside the library, but there are no other items of bulky street furniture. This simple but ordered arrangement of the space alongside the listed building contributes to its setting as it relates well to its character. The addition of the kiosk to this area, owing to its bulky form and lack of design finesse, would have a harmful effect on the character and appearance of the area and setting of the adjacent listed building.
31. The pavement is wide at the point where the kiosk would be sited, and the kiosk would be set further out towards the pavement edge than the nearby bus shelter. I am satisfied therefore that the siting of the kiosk would not cause harm to the pedestrian environment. Furthermore, I am not convinced that the proposed kiosk would increase opportunities for crime or anti-social behaviour.
32. Although I have found that the proposed kiosk would not harm the pedestrian environment or increase opportunities for crime or anti-social behaviour, these matters are not sufficient to outweigh the harm I have found in relation to the

proposal's impact on the character and appearance of the area and setting of the listed building. Accordingly, appeal D should be dismissed.

*Appeal E - Pavement outside Adelaide Road corner Finchley Road*

33. This site is on the corner of two roads. The boundary wall of the adjacent property is canted to face the centre of the junction, whereas the outer edge of the pavement is curved, which results in a pavement that is wide at the centre and narrow to either end where it connects to the adjacent roads. The stretch of pavement is occupied by small items of street furniture, with a width that could accommodate a significant flow of pedestrian traffic associated with the adjacent road crossing.
34. The kiosk would be sited on the inside of the pavement. Details of the orientation of the kiosk have not been provided with any of the appeals. If the back of the kiosk were positioned against the boundary wall and hedge the structure would not be overly prominent, however this would be unlikely as it would mean that the appellant would be unable to make use of the glazed rear surface for the display of an advert. The kiosk would look cumbersome and bulky positioned side on, in an area that is not characterised by any large items of street furniture. I consider this to be harmful to the character and appearance of the area.
35. Owing to the corner location, pedestrians are likely to walk against the inside of the pavement as this is the quickest route. The kiosk would create a significant physical obstruction to this desire line, harming the pedestrian environment.
36. The Council also refer to the effect of the proposal on the setting of the nearby grade two listed building, Regency Lodge. This building has a substantial scale and occupies a large footprint on the opposite side of the road. As the kiosk would have a very modest scale in comparison, and would be set on the other side of the road away from the listed building, I am satisfied that it would not cause harm to the setting of this listed building. Furthermore, I am not convinced that the proposed kiosk would increase opportunities for crime or anti-social behaviour.
37. Although I have found that the proposed kiosk would not harm the setting of the listed building or increase opportunities for crime or anti-social behaviour, these matters are not sufficient to outweigh the harm I have found in relation to the character and appearance of the area and the pedestrian environment. Accordingly, Appeal E should be dismissed.

*Appeal F - Finchley Road opposite cinema*

38. This site is located alongside a wide and busy road, with a large cinema and other commercial buildings opposite. The pavement in the vicinity of the site is of a generous width and street furniture is limited to signage and lighting columns. Further north on the same side of the road is a bus shelter and other bulky items of street furniture, positioned close together. The proposed kiosk would be in an isolated position set away from these existing structures in an area where no bulky items of street furniture are located. The siting of the kiosk in such a location, taking into account its width and height, would harm the character and appearance of the area.

39. In terms of highway safety, the kiosk would be sited close to an access road to the north where, owing to the slight curve in the road it would significantly reduce visibility for drivers emerging from the access onto Finchley Road. The proposal would therefore harm highway safety.
40. I am however not of the view that the reduction in footway width would be harmful here, given the generous width of the pavement and location of the kiosk away from pedestrian desire lines. Furthermore, I am not convinced that the proposed kiosk would increase opportunities for crime or anti-social behaviour.
41. Although I have found that the proposed kiosk would not harm the pedestrian environment or increase opportunities for crime or anti-social behaviour, these matters are not sufficient to outweigh the harm I have found in relation to the character and appearance of the area and highway safety. Accordingly, Appeal F should be dismissed.

*Appeal G - Pavement outside 27-28 Chalk Farm Road*

42. This site is located in a busy and vibrant area, dominated by a high volume of vehicle movements including buses, and pedestrian movements associated with the adjacent businesses and a principal entrance to Camden Market opposite. The pavement in the area of the site is a generous width, and is only occupied by a narrow street furniture zone towards the outer edge of the pavement, primarily made up of a row of street trees. There are no bulky items of street furniture in the vicinity of the proposed kiosk location. The redundant bus shelter referred to in the submitted evidence has been removed. This simple and uncluttered arrangement contributes to the setting of the traditional Camden Market buildings, which are grade two and grade two star listed, and the setting of the Regent's Canal Conservation Area, the boundary of which is on the opposite side of the road.
43. The introduction of the kiosk into this area, taking into account its bulky scale and basic modern design, would have an adverse impact on the simple character and appearance of the street, and the setting of the adjacent listed building and conservation area.
44. The current lack of bulky items of street furniture helps to accommodate a significant flow of pedestrian traffic at busy times. Whilst a sufficient width of pavement would still be retained for pedestrians walking along the length of Chalk Farm Road, the introduction of the kiosk into this location would significantly disrupt pedestrian desire lines associated with the busy entrance of Camden Market on the opposite side of the road. This would be further exacerbated by the presence of the existing street trees to either side of the kiosk, which in combination with the proposed kiosk would restrict pedestrian flow.
45. I am however not convinced that the proposed kiosk would increase opportunities for crime or anti-social behaviour.
46. Although I have found that the proposed kiosk would not increase opportunities for crime or anti-social behaviour, this matter is not sufficient to outweigh the harm I have found in relation to the character and appearance of the area, the

setting of the adjacent heritage assets and the pedestrian environment. Accordingly, Appeal G should be dismissed.

47. I note that a previous kiosk proposal at this site was allowed at appeal<sup>3</sup>. The Inspector who determined this appeal did not find the kiosk to be harmful to the setting of the adjacent listed building or conservation area, or to the pedestrian environment. I do not have full details of this previous scheme before me to be sure that the site is exactly the same and am not able to make a comparison between the designs of the kiosks to the extent that it would lead me to come to a similar conclusion as the previous Inspector. Furthermore, I saw that there are no intervening trees between the kiosk and the adjacent heritage assets sufficient to screen views, and found that the siting of the kiosk would have an adverse effect on pedestrian movements across the road associated with the Market. I am therefore satisfied that it is reasonable for me to come to an alternative view to that of the previous Inspector.

*H - Pavement outside 241 Camden High Street*

48. This site is located in a vibrant and busy shopping area, immediately adjacent to a row of heavily decorated buildings. The pavement in this area is not particularly wide given the level of activity. There are no bulky items of street furniture in the vicinity of the appeal site, although by comparing photos taken by the appellant with what I saw when I visited the site I note that a series of modest square timber boxes have been sited towards the outer edge of the pavement to serve as benches. These suit the character of the area, and are small so do little to impede pedestrian flow.
49. In contrast the siting of the bulky kiosk with its basic modern design would look poor in this context. Furthermore, it would be very close to, if not in the same location as one of the recently sited benches. On the basis that it would still be possible to site the kiosk next to the newly positioned bench, siting the two items so close together would look unplanned and awkward, and the two structures would not be well related owing to their very different materials.
50. The wide form of the kiosk would restrict pedestrian flow. Its siting would have an impact on the functionality of the adjacent delivery bay and access to adjacent shops for deliveries.
51. In terms of crime and anti-social behaviour, I note from the photos provided by the appellant that the shops are secured when closed with solid metal shutters. At my visit one of the shops close to the appeal site was still secured in this way and the shutter face had been heavily vandalised with graffiti. I am therefore of the view that the siting of a large item of street furniture could give rise to further criminal or anti-social behaviour.
52. The Council refer to the effect of the proposed kiosk on the setting of the adjacent Camden Town Conservation Area. This is set away from the site to the south, with intervening items of small street furniture and street trees opposite that would ensure that the setting of this designated area would not be harmed.
53. Although I have found that the proposed kiosk would not harm the setting of the adjacent listed building, this matter is not sufficient to outweigh the harm I

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<sup>3</sup> APP/X5210/W/17/3202786

have found in relation to the character and appearance of the area, the pedestrian environment, the functional operation of adjacent businesses and the matters of crime and anti-social behaviour. Accordingly, appeal H should be dismissed.

*Appeal I - Pavement outside 42 Highgate Road*

54. This site is located close to a road junction in an area that is primarily residential in character. Whilst there are some bulky recycling bins nearby these are grouped together against a mature tree, which is the dominant feature. The proposed kiosk would stand in an isolated position, on a reasonably wide stretch of pavement in an area that opens out to a junction. In such a position the kiosk would be obtrusive and therefore harmful to the character and appearance of the area.
55. I am not satisfied that it would harm the pedestrian environment as the pavement is wide and it is set back far enough from the adjacent pedestrian crossing that desire lines would not be restricted. However, its position so close to the junction would restrict visibility southeast for drivers emerging from Burghley Road. The siting of the kiosk would therefore harm highway safety.
56. In terms of crime and anti-social behaviour, I note the comments submitted relating to the proximity of the kiosk to the adjacent flats. These flats have front facing balcony areas at road level. The use of the kiosk in such close proximity to these balcony areas, including persons using the structure for shelter or purposes other than making a telephone call, could give rise to behaviour that is anti-social.
57. Although I have found that the proposed kiosk would not harm the pedestrian environment, this matter is not sufficient to outweigh the harm I have found in relation to the character and appearance of the area, highway safety and matters of crime and anti-social behaviour. Accordingly, appeal I should be dismissed.

*Appeal J - Pavement outside 19 Highgate Road*

58. This site is opposite the site of appeal I. The kiosk would be located in an existing street furniture zone and would therefore not be isolated. Although the street furniture zone includes large and small items of street furniture, they are appropriately spaced to the effect that the area does not look cluttered. The proposed kiosk would be close to an existing telephone kiosk. As well as being of quite a different design to the existing kiosk it would be considerably wider and would therefore look cumbersome against the smaller and more traditional proportions of the existing kiosk, and would result in a cluttered arrangement of street furniture that would harm the character and appearance of the area.
59. Although wider than the existing kiosk I am satisfied that the proposed kiosk would not harm the pedestrian environment as the section of pavement is not overly busy and the siting of the kiosk would not harm pedestrian desire lines.
60. The kiosk would be close to the southern end of the Dartmouth Park Conservation Area, but not so close that it would harm its setting, taking into account existing street furniture in the area and the character of the buildings immediately related to the site, which do not contribute positively to the setting of the designated area. The site is not far from the grade two listed Christ

Apostolic Church, however its setting would not be harmed by the siting of the kiosk owing to the intervening modern brick building. Furthermore, I am not convinced that the proposed kiosk would increase opportunities for crime or anti-social behaviour.

61. Although I have found that the proposed kiosk would not harm the pedestrian environment, the setting of the nearby heritage assets, and would not increase opportunities for crime or anti-social behaviour, these matters are not sufficient to outweigh the harm I have found in relation to the character and appearance of the area. Accordingly, appeal J should be dismissed.

*Appeal K - Pavement outside 53-57 Highgate Road*

62. This site is located in a relatively quiet urban area in the context of buildings without active ground floor frontages, although the kiosk would be sited directly outside a recessed doorway serving an existing building. The kiosk would be located in the region of existing street furniture, but would not be so closely spaced that the area would appear cluttered. However, it would be finished in unpainted steel, which would not assimilate well with the black finishes of existing street furniture, and it would not be sited near to any existing bulky items, so would have a moderately adverse impact on the character and appearance of the area.
63. Although wider than other items of furniture I am satisfied that the kiosk would not harm the movement of pedestrians along the pavement or restrict pedestrian desire lines. I am therefore satisfied that the pedestrian environment would not be harmed.
64. The kiosk would be sited well away from the Dartmouth Park Conservation Area, and the listed buildings that the Council refer to are not near to this site. I am therefore satisfied that the siting of the kiosk would not harm the setting of these heritage assets.
65. In terms of crime and anti-social behaviour, the kiosk would be sited outside an existing recessed building entrance. This entrance does not appear to be in regular use and therefore the siting of the kiosk in such close proximity is unlikely to harm its function, however it would restrict views of the recessed area. As such, in combination with its apparent lack of use, it would be likely that this area is attractive for persons to find shelter and owing to the siting of the proposed kiosk would be more restricted to natural surveillance, which would increase opportunities for crime and anti-social behaviour.
66. Although I have found that the proposed kiosk would not harm the setting of the heritage assets referred to or the pedestrian environment, these matters are not sufficient to outweigh the harm I have found in relation to the character and appearance of the area and matters of crime and anti-social behaviour.

**Other Matter**

67. In support of the proposals the appellant refers to compliance with the pedestrian comfort guidance produced by Transport for London. I have taken this into account alongside my considerations of the individual merits and site specific circumstances of each proposal as set out above, and found that the appeal proposals A, B, C, E, G and H would cause harm to the pedestrian environment.



## **Conclusions**

68. For the above reasons, within the provisions of the GPDO, I conclude that appeals A – K should be dismissed.

*Andrew Tucker*

INSPECTOR



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## Appeal Decisions

Site visit made on 6 October 2020

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 16 November 2020

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### **Appeal A Ref: APP/X5210/W/20/3253878**

#### **Proposed replacement Telephone Kiosk outside 216-217 Tottenham Court Road, London W1T 7PT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Richard Wilson and New World Payphones against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/4035/P, dated 7 August 2019, was refused by notice dated 7 April 2020.
  - The development proposed is proposed new telephone kiosk outside 216-217 Tottenham Court Road to replace the existing two kiosks located outside 204-208 Tottenham Court Road, which would be removed.
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### **Appeal B Ref: APP/X5210/Z/20/3253540**

#### **Proposed replacement Telephone Kiosk outside 216-217 Tottenham Court Road, London W1T 7PT**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Richard Wilson and New World Payphones against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/4928/A, dated 7 August 2019, was refused by notice dated 7 April 2020.
  - The advertisement proposed is illuminated digital advertisement display integrated within replacement telephone kiosk.
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## Decisions

### **Appeal A Ref: APP/X5210/W/20/3253878**

1. The appeal is dismissed.

### **Appeal B Ref: APP/X5210/Z/20/3253540**

2. The appeal is dismissed.

## Procedural Matters

3. The applications were submitted together on a single application form covering both planning permission and consent to display advertisements. As set out above there are two appeals on this site relating to different aspects of the same proposal. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. The Council has referred to development plan policies in respect of Appeal B. As advertisement proposals can only be considered on the basis of amenity and public safety considerations, I have taken into account relevant development plan policies so far as they relate to these issues, but in themselves they have not been determinative from the point of view of my overall conclusion on the advertisement appeal.
5. Subsequent to determination of the application the appellants have submitted a revised plan (Drawing No PY3338/030 -rev A) which reflects recent changes to the layout of the street. The layout depicted reflects that which I observed during my site visit and in determining this appeal I have considered the layout of the street as shown in the amended plan. The Council have had the opportunity to comment on the amended plan and I do not consider that either party would suffer prejudice by my so doing.

### **Main Issues**

6. Since submitting the appeal the Main Parties have entered into an Agreement made under Section 106 of the Town and Country Planning Act 1990, Section 111 of the Local Government Act 1972, Section 278 of the Highways Act 1980, Section 1 of the Localism Act 2011 and the New Roads and Streetworks Act 1991 (the Agreement). Through the Agreement, the proposal would remove two existing kiosks located outside 204-208 Tottenham Court Road. The Agreement would also make provision for a new street tree to be provided for each of the kiosks removed. Further provision is made for the cleaning and upkeep of the replacement kiosk to an agreed standard. The Agreement also makes provision for the Council to have access to the advertising panel and provide a wayfinding screen to display Council messages, including emergency messages. I have taken the Agreement into account as part of my consideration of both appeals and I am satisfied that it is both acceptable and necessary.
7. I consider that, through the Agreement, the Council's concerns relating to the fourth reason for refusal in the Decision Notice for to Appeal A are addressed.
8. The main issues in relation to Appeal A are, therefore, (i) whether the development would preserve or enhance the character or appearance of the Bloomsbury Conservation Area (the CA) and wider street scene, and (ii) the effect of the siting of the proposed development on pedestrian movement and public safety.
9. In relation to Appeal B, the control of advertisements is exercisable only with respect to amenity and public safety. The main issue is the effect of the proposed advertisement on amenity.

### **Reasons**

10. The site is located on the footway outside 216-217 Tottenham Court Road, a building of traditional design accommodating a shop on the ground floor. Tottenham Court Road is a wide street with commercial uses on both sides. The range of shops and services provided and the high-density office and residential accommodation in the area combine to result in Tottenham Court Road having the character of a busy urban street.
11. There is a wide footway between the building frontage and the vehicular carriageway in the vicinity of the site, with very limited street furniture, in the

form of a streetlight of contemporary design. There is also a street tree of moderate stature. Farther afield there is a pair of telephone kiosks and the footway has been modified to incorporate a delivery bay. Advertising on the commercial units includes some internally illuminated signage but is generally low key and incorporates static images.

12. The buildings exhibit a mix of architectural styles, including modern infill, generally with more modern shop fronts below. Overall the area has a pleasant sense of spaciousness despite its busy urban character, whilst the limited street furniture gives this frontage a particularly open, uncluttered feel. The aforementioned attributes add positively and distinctively to the character and appearance of the CA in the immediate vicinity of the site.
13. The Council, as part of their consideration of the application, requested usage figures for the kiosks that would be removed or replaced. Whilst this demonstrated a very low level of usage of kiosks in the vicinity of the appeal site, a degree of usage was nonetheless present, including that by persons accessing emergency and other support services. Further, the development would provide a type of structure that could be conveniently accessed by those with a mobility impairment and thus would meet a clear need for its users. The proposal would, therefore, address a degree of need in the area and the kiosks to be replaced are not, on the basis of the evidence before me, entirely redundant.
14. Paragraph 116 of the Framework makes it clear that decisions on applications for telecommunications equipment should be made on planning grounds and that decision-takers should not seek to “prevent competition between different operators... [or]... question the need for the telecommunications system”.
15. The appellants argue that the increased use of the mobile phone has resulted in a decrease in use of public telephone boxes, and that this usage is further reduced by the lack of inclusivity and anti-social behaviour issues associated with the design of their current kiosk. They cite an increase in usage of their kiosks following upgrade and I have no reason to dispute this.
16. The proposed development would result in a kiosk of L-shaped cross section and a roof being installed close to the footway edge, with the shorter side closest to the kerb and the longer side at right angles to the flow of traffic. It would have an advertising panel on the longer side.
17. There is dispute between the main parties regarding the need for the structure to be of the form and scale proposed. Notwithstanding that an alternative structure could physically incorporate the proposed telecommunications equipment, the design incorporates a roof and a side panel which would provide shelter from the elements for customers whilst retaining two open sides to allow access for those with a mobility impairment and improve natural surveillance. The degree of shelter that would be provided would be a reasonable balance against the need to provide accessibility. However, as a consequence of its height, width, dark colour, illuminated screen and separation from other street furniture of a similar scale, the proposed kiosk would be a prominent feature in the street scene.
18. This proposal is one of several in the wider area of Camden seeking to rationalise kiosk provision and reduce the number of kiosks overall. Whilst its simple, modern design incorporating elements referencing traditional kiosks

would not be discordant with the modern shop fronts against which it would be set, the introduction of the kiosk in this location would significantly affect the sense of openness and spaciousness of the frontage which I have identified above. In this context the reduction in openness and spaciousness would result in harm and would fail to preserve the character and appearance of the CA.

19. Further, the visual impact of the kiosk would be increased by the large illuminated advertising panel, which would be a dominating feature on the structure. The panel, close to the kerbline, would be a prominent standalone illuminated feature. The panel would be unrelated to the services provided by the adjacent commercial units and would appear prominent in views along the street both during the day and in hours of darkness.
20. The luminance level and rate of image transition could be controlled by condition and such forms of advertisement are becoming increasingly familiar on the street scene. Nevertheless, the appeal proposal would, as a result of the internal illumination associated with the panel, its position adjacent to the kerb and changing images, create an additional discordant feature within the street scene, adding visual clutter and hence would not preserve or enhance the character or appearance of the CA. To this extent significant harm would be caused to the character and appearance, and hence to the visual amenity of the area.
21. Even without displaying an advertisement, the illuminated screen would be a discordant feature within the street scene adding unnecessary visual clutter and hence would not preserve or enhance the character or appearance of the CA.
22. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area. In addition, Paragraph 193 of the Framework requires when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
23. Whilst, within the wider area, there are other examples of illuminated advertisements mounted on street furniture near the kerbline, including digital advertisements, these are some distance from the appeal site or not located within the context of this particular street frontage.
24. No pedestrian count data has been provided by either party in support of their case. However, the proposal site lies on a busy commercial street where pedestrian volumes are forecast to increase following rail network improvements<sup>1</sup>. With the incidence of the Coronavirus, more emphasis is being put on encouraging pedestrian movement whilst maintaining safe social distancing, requiring additional useable pavement width.
25. With regard to the current layout of the street and footway width the replacement of the kiosk would result in a reduction in width of available footway. The proposal would be located close to, and in line with, an existing street tree. Whilst the kiosk would leave a clear width of footway in excess of recommended minimum width for high footfall locations contained within

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<sup>1</sup> Crossrail and High Speed 2 projects

- Appendix B of the Transport for London (TfL) guidance document entitled 'Pedestrian Comfort Guidance for London', the spacing between obstacles would be likely to result in pedestrians being forced to repeatedly give way or, in the alternative, step into the live carriageway with associated risk of accident.
26. The Metropolitan Police Crime Prevention Design Advisor has identified that, associated with their current low levels of use, telephone kiosks within the Borough have become crime generators and focal points for anti-social behaviour (ASB).
  27. It is possible that the structure could attract ASB such as urinating against or within the structure and vandalism/graffiti. 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.
  28. Levels of illumination from the kiosk could be controlled through a suitable planning condition and I have little substantive evidence before me to demonstrate that the illumination from a kiosk in this location would have an adverse effect on CCTV coverage. However 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.
  29. It is proposed to remove two kiosks further along the street. Their removal would have the benefit of fewer structures in their local streetscape, and I have no reason to object to their removal. Such de-cluttering of the streetscape is supported within the TfL Streetscape Guidance Fourth Edition -2019 Revision 1. These kiosks are positioned towards the centre of the footway and their removal would result in a modest benefit in aiding the flow of pedestrians along the footway. Therefore, I attach moderate weight to any potential benefits that could arise from this.
  30. The appellants identify that the inclusion of the advertisement panel is necessary to facilitate the proposed upgrading of their kiosk stock. However, there is little evidence before me to demonstrate that the inclusion of advertising in the form proposed is the only way of achieving this end and so I give this argument limited weight.
  31. Drawing these points together, I conclude that in respect of Appeal A the development would fail to preserve the character and appearance of the CA and wider street scene. The proposal would therefore not comply with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would also be contrary to Policies D1 and D2 of the Camden Local Plan -2017- (the Local Plan) in as much as these require development to respect local context and character and preserve or enhance the historic environment and heritage assets.
  32. The above identified harm would be less than substantial taking into account paragraph 196 of the Framework. The Framework directs that where a development proposal would lead to less than substantial harm, this harm

should be weighed against the public benefits of the proposal. I deal with this matter below.

33. Furthermore, the proposal would have a harmful effect on pedestrian movement and public safety and so it would be contrary to Policies G1, A1, C6, T1 and C5 of the Local Plan in as much as these, amongst other things, promote streets and public areas which are fully accessible, easy and safe to walk through and provide high quality footpaths and pavements that are wide enough for the number of people expected to use them, and resist development that fails to adequately address transport impacts affecting communities and the existing transport network.
34. For the reasons outlined above, I conclude that in respect of Appeal B the proposed digital advertising panel would be harmful to the CA and hence to amenity and therefore would not accord with Policies D1, D2 and D4 of the Local Plan in as much as these require development to respect local context and character, preserve or enhance the historic environment and heritage assets and to avoid contributing to an unsightly proliferation of signage in the area and so are material in this case.
35. In respect of Appeal A, the kiosk would provide a number of services to members of the public, which I understand to be at no cost to end users, including local information provided by the Council and travel and emergency information. The proposal would remove two other kiosks of unattractive appearance, thus reducing overall street clutter within the Borough and assisting pedestrian movement. The proposal would make provision for the maintenance and upkeep of the new kiosk. For each of the kiosks removed a payment would be received to enable the planting of a street tree within the Borough, which would provide wider environmental benefits.
36. The Framework supports the expansion of electronic communication networks which are essential to economic growth and social well-being. Notwithstanding that there are other facilities in the area that provide similar services, the proposal would provide some minor public benefit through increased competition. In addition, the kiosks inclusive design (including accessibility and shelter for the mobility impaired) weighs moderately in favour of the proposal. Whilst these are positive matters to weigh in the overall planning balance, they are not of sufficient magnitude to outweigh the less than substantial harm caused by the kiosk to the character and appearance of the CA.
37. In respect of Appeal B, the advertisement screen would provide local information provided by the Council and emergency information. The Framework supports the expansion of electronic communication networks which are essential to economic growth and social well-being. Whilst these are positive matters to weigh in the overall planning balance, they are not of sufficient magnitude to outweigh the harm caused by the advertisement to the amenity of the area.

### **Other Matters**

38. I note that the main parties engaged in a prolonged process of pre-application discussions, however, such participation, though laudable, is not a guarantee of success. I further note that the appellants have expressed concerns that the Council has been inconsistent in their decision making process. That, however, is a matter between the appellants and the Council.



39. My attention has been drawn by both of the main parties to other appeal decisions in regard to telephone kiosks and advertisements in other local planning authorities. However I have little information before me to draw a comparison between these cases and the proposals before me, particularly in regard to the design of the proposed kiosk and advertisement screen in the context of their setting. In any case, I have determined these appeals on their individual merits and with regard to current planning legislation.

**Conclusions – Appeals A & B**

40. For the above reasons I conclude that Appeal A and Appeal B should be dismissed.

*I Dyer*

INSPECTOR



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## Appeal Decisions

Site visit made on 11 October 2022

**by Colin Cresswell BSc (Hons) MA MBA MRTPI**

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

**Decision date: 2 November 2022**

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### **Appeal A- Ref: APP/X5210/W/22/3297273**

#### **Pavement o/s 39 Tottenham Court Road, Tottenham Court Road, London W1T 2AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr James Browne (BT Telecommunications Plc) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2021/3912/P, dated 29 July 2021, was refused by notice dated 3 March 2022.
  - The development proposed is installation of 1no.new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosk(s).
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### **Appeal B- Ref: APP/X5210/W/22/3297276**

#### **Pavement o/s 39 Tottenham Court Road, Tottenham Court Road, London W1T 2AR**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr James Browne (BT Telecommunications Plc) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2021/4354/A, dated 29 July 2021, was refused by notice dated 3 March 2022.
  - The advertisement proposed is installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosk(s).
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### **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Procedural Matters**

3. I refer to the different cases as Appeal A and Appeal B. I have dealt with each appeal on its individual merits, but to avoid duplication both proposals are considered together in this decision.
4. Both appeals concern the same proposal for a kiosk. Appeal A seeks planning permission for the kiosk itself, whereas Appeal B seeks advertisement consent for the advertising display which would be attached to the kiosk.

## **Main Issues**

5. The main issues in Appeal A are:

- the effect on the proposal on the character and appearance of the area, including the setting of designated heritage assets.
- the effect of the proposal on pedestrian movement.
- the effect of the proposal on crime.

The main issues in Appeal B are:

- the effect of the proposal on visual amenity.
- the effect of the proposal on public safety.

## **Reasons**

### **Appeal A**

#### *Character and appearance*

6. This part of Tottenham Court Road is characterised by shops, offices and commercial premises and is a particularly busy area for traffic and pedestrians. Although the pavement is relatively wide and open at this point, it contains various items of street furniture which give it a somewhat cluttered appearance. Alongside rows of trees on the pavement, there are also a number of existing telephone boxes, metal street cabinets, litter bins and a cabin containing a mobile phone repair business.
7. Buildings in the area of a generally mixed appearance. The proposed kiosk would be situated outside a contemporary style glass fronted building with HSBC, Superdrug and Natwest occupying the ground floors. Other parts of the street are dominated by older style properties of high architectural merit. Indeed, the site is immediately adjacent to both the Charlotte Street and Bloomsbury Conservation Areas as well as being close to some listed buildings. This includes 19 Percy Street, a Grade II listed building which the kiosk would directly face on the corner of the street. However, due to the commercial nature of Tottenham Court Road and the relatively small size of the kiosk in the context of the wider street scene, it seems to me that the proposal would not harm the setting of any designated heritage assets. As such, there would be no conflict with Policy D2 of the Local Plan<sup>1</sup>, which aims to protect the qualities of listed buildings and Conservation Areas.
8. While the proposed kiosk would not interfere with the way in which the surrounding buildings are viewed, it would nevertheless be a very conspicuous feature on the pavement, appearing more as a large, flat panel rather than a traditional phone box. Not only would it be notably taller and wider than the existing kiosks, it would also present face-on to those walking along this part of the street. Its solid, angular profile combined with its height would make the kiosk appear far more conspicuous than the existing phone boxes despite its slim design and relatively small footprint.
9. That said, the proposal would involve the removal of existing BT kiosks which would help to reduce the overall quantity of street furniture on this part of the

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<sup>1</sup> Camden Local Plan 2017

- pavement. I am also conscious that the existing BT kiosks are dated and in a poor state of repair, with some being covered in graffiti and showing signs of physical damage. Refreshing the old kiosks with a more modern installation therefore has some potential to create a cleaner and more visually pleasing street scene than exists at present.
10. 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 seems 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 to 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.
  11. 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.
  12. I therefore conclude that the proposal would have a harmful effect on the character and appearance of the area. There would be conflict with Policies G1 and D1 of the Local Plan, which aim to maintain high standards of design. The proposal would also conflict with the objective in Part 3 of the Fitzrovia Area Action Plan<sup>2</sup> to enhance the interaction between streets and the ground floors of buildings by removing visual clutter and encouraging high quality design. Although the proposal would help to reduce visual clutter by removing the existing BT kiosks and replacing them with a single unit, it would not maintain high standards of design for the reasons set out above.

#### *Pedestrian movement*

13. The proposed kiosk would inevitably obstruct some lines of sight along the pavement due to its height, width, and lack of visual permeability. However, the pavement is relatively wide at this point and, in practice, pedestrians would be able to see adequately in either direction with plenty of room to manoeuvre. While the kiosk would be near a pedestrian crossing, it would be seen in its relatively slim side-profile from here and so would be unlikely to distract those crossing the road or otherwise cause a significant obstruction. Furthermore, the removal of the existing BT kiosks would result in a net reduction of street furniture, enabling a more open pavement overall.
14. This leads me to conclude that the proposal would have an acceptable effect on pedestrian movement. There would be no conflict with Policy T1 of the Local

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<sup>2</sup> Fitzrovia Area Action Plan, adopted March 2014

Plan which, amongst other things, aims to promote walking. Nor would there be any conflict with Policy C6 which promotes accessible development.

### *Crime*

15. I understand that there are incidents of street crime and anti-social behaviour in this area and have considered the comments raised by the Police with regard to this matter. However, based on the evidence provided, I am not convinced that the proposed kiosk is likely to worsen the situation. Although it would be possible for people to loiter around the new kiosk or hide behind it, this is also the case with the existing BT kiosks. The existing kiosks are not fully transparent as they have a solid panel on the back and much of the glass is obscured by advertising panels. In fact, it seems to me that the removal of the existing BT kiosks would give fewer opportunities for people to hide as they cover a greater area of the pavement than the proposed kiosk would. While the new kiosk would not be enclosed, I saw on my visit that some of the existing kiosks lack doors and so are at least partially open to the pavement. Hence it seems unlikely that the proposal would increase opportunities for bag snatching or other crime over and above the existing situation.
16. I therefore conclude that the proposal would have an acceptable effect on crime. There would be no conflict with Policy C5 of the Local Plan which promotes safer streets and public areas.

### *Other matters*

17. Apart from a public telephone, the proposed new kiosk would incorporate other features including device charging, public Wi-Fi and wayfinding. However, relatively little information has been provided to indicate the need for such facilities in this specific location. In the absence of such evidence, I am unable to determine that these benefits would clearly outweigh the harm to character and appearance that I have identified above.
18. My attention has been drawn to a number of planning appeals concerning kiosks in other locations. While I appreciate the similarities between those appeals and the current case in terms of kiosk design, there are nonetheless marked differences between the characteristics of each individual site and proposal. As such, these appeals do not establish a particularly convincing precedent for the current case.

## **Appeal B**

### *Visual amenity*

19. Although the Council has quoted various development plan policies in its reasons for refusal in Appeal B, the Regulations<sup>3</sup> limit my considerations to issues of public safety and amenity. Nonetheless, it seems to me that many of the planning concerns which were relevant in Appeal A (for the kiosk) are equally relevant in Appeal B (for the advertising).
20. The proposed advertising display would be broadly compatible with the commercial nature of street frontage in this location and the illuminated shop fronts. However, it would be a very prominent feature on the pavement due to its size and positioning. For similar reasons to those already covered under

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<sup>3</sup> Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Appeal A, the display would be unsightly as it would be highly vulnerable to being vandalised or falling into long-term disrepair. I therefore conclude on this issue that the proposal would harm visual amenity.

### *Public Safety*

21. The proposed advertising display would be visible to drivers approaching the pedestrian crossing. However, I do not consider that it would compromise highway safety. There is already a prevalence of shopfront advertising and illuminated signage here and so drivers are unlikely to pay undue attention to an additional advertising display. Planning conditions could also be imposed to control brightness and the frequency at which different adverts are displayed. This would further reduce the chances of distraction. The proposal would have little impact on those crossing the road as the display would be seen from a side-on perspective and so would not be fully visible. I therefore conclude that the proposal would have an acceptable effect on public safety.

### **Conclusion**

#### **Appeal A**

22. The proposal would have an acceptable effect on pedestrian movement and crime. However, this does not outweigh the harm to character and appearance that has been identified. The appeal is therefore dismissed.

#### **Appeal B**

23. The proposal would be acceptable in terms of public safety but this does not outweigh the harmful effect it would have on visual amenity. The appeal is therefore dismissed.

*C Cresswell*

INSPECTOR





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## Appeal Decisions

Site visits made on 24 March 2020

by **P W Clark MA(Oxon) MA(TRP) MRTPI MCMi**

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

Decision date: 27 March 2020

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### **Appeal A Ref: APP/X5210/W/19/3231407**

#### **Public highway, 241 Camden High Street, London NW1 7BU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/5550/P, dated 6 November 2018, was refused by notice dated 19 December 2018.
  - The development proposed is installation of 1 x telephone kiosk on the pavement.
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### **Appeal B Ref: APP/X5210/W/19/3231440**

#### **Public highway, adj 1 Haverstock Hill, London NW3 2BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/5563/P, dated 6 November 2018, was refused by notice dated 20 December 2018.
  - The development proposed is a public call box.
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### **Appeal C Ref: APP/X5210/W/19/3231475**

#### **Public highway, adj 24 Haverstock Hill, London NW3 2BQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/5554/P, dated 6 November 2018, was refused by notice dated 20 December 2018.
  - The development proposed is a public call box.
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### **Appeal D Ref: APP/X5210/W/19/3231479**

#### **Public highway, 88 Avenue Road, London NW3 3HA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Maximus Networks Ltd against the decision of the Council of the

London Borough of Camden.

- The application Ref 2018/5539/P, dated 6 November 2018, was refused by notice dated 20 December 2018.
  - The development proposed is a public call box.
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### **Appeal E Ref: APP/X5210/W/19/3225170**

#### **Public highway, 27-28 Chalk Farm Road, London NW1 8AG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Maximus Networks Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/3828/P, dated 6 August 2018, was refused by notice dated 25 September 2018.
  - The development proposed is a public call box.
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### **Decisions**

1. All five appeals are dismissed.

### **Procedural matter**

2. All five applications were made before 25 May 2019 when the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations came into force. These regulations amended the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO) so as to remove permission for the installation, alteration or replacement of a public call box by, or on behalf of, an electronic communications code operator but with transitional arrangements for cases already in hand. Thus, these five appeals are treated as if the changes to the GPDO had not been made.

### **Main Issues**

3. All five appeals were refused prior approval on similar grounds; of character and appearance, highway safety, anti-social behaviour and convenience to wheelchair users. In addition, refusals of appeals A and E make reference to effects on nearby Conservation Areas and refusals of appeals B and D make reference to the setting of listed buildings. However, under the terms of the GPDO, only the siting and appearance of the apparatus can be taken into consideration.
4. Not a reason for refusal in any of the five cases but adduced in the Council's appeal statements in all five appeals is a questioning of the eligibility of all five proposals for consideration under the terms of the GPDO, with reference to the New World Payphones judgment of February 2019; [2019] EWHC 176 (Admin). That judgment held that a development which is partly for the purpose of an operator's network, and partly for some other purpose, is not development "for the purpose" of the operator's network, precisely because it is for something else as well.
5. For the above reasons, the issues in all five of these appeals are whether or not the proposal in each appeal is solely for the purpose of the operator's electronic communications network and, if so, the effects of the siting and appearance of

each proposal on the character and appearance of the area, highway safety, anti-social behaviour and convenience to wheelchair users. In the case of appeals A, B, D and E there is also the issue of the effect of the siting and appearance of each proposal on the significance of a nearby designated heritage asset to take into account.

## **Reasons**

### *Purpose*

6. All five appeals are accompanied by a Counsel's opinion. This draws on a written description of the design of the "Max 2" call box. The opinion asserts that none of the Maximus appeal cases include any advertising features and that the proposed development includes no elements that are there for the purpose of advertising.
7. It is correct that the written description of the design of the "Max 2" call boxes appended to the Counsel's opinion in each appeal case contains nothing which can be identified as included for the purpose of advertising. But, each of the five proposals before me includes drawings of the kiosks. One of the drawings in each appeal is a three-dimensional illustration of the proposal which shows an advertising display on one side of the unit (in the illustrations, these advertise the qualities of the Max 2 kiosk itself).
8. Each appeal has a second drawing. Although in all five cases they are given the drawing number MAX 2 ASSEMBLY Rev C, they are not identical in each case. Those for appeals A, B, C and D are dated 06.09.2018 and show on one side of the unit (in the place where an advertising display is indicated on the previous three-dimensional drawing) a visual area 1100mm x 1700mm and labelled "non-illuminated display panel". The drawing for appeal E is dated 18.07.2018 and does not have the notation "non-illuminated display panel" but is still shown to have an identical visual area 1100mm x 1700mm.
9. I therefore conclude that the visual area which is included as an element of each proposal in all five cases before me is an element included for the purposes of a non-illuminated display of what would amount to an advertisement as defined in the Act. The drawings before me therefore indicate elements included for the purposes of advertising. It follows that the proposals in all five appeal cases are partly for the purpose of an operator's network, and partly for some other purpose. Consequently, the proposal in each appeal is not development "for the purpose" of the operator's network, precisely because it is for something else as well. None of the proposals in each appeal should have been entertained as a prior notification application.
10. But they were entertained, registered as such and a decision was issued in each case. Those decisions are now the subject of appeals which are before me and so I give my conclusions on the issues they raise even though such consideration cannot override my findings that each appeal relates to a proposal which does not fall within the purview of permitted development.

### *Appeal A – 241 Camden High Street*

11. This proposal would be sited a few yards outside the boundary of the Camden Town Conservation Area. But the essential character of the Conservation Area is that of a commercially vibrant town centre where the siting and appearance

of a telephone kiosk would not be out of place. The immediate surroundings of the location comprise late Georgian or early Victorian flat fronted terraces, some painted in a variety of colours. There are modern shopfronts at ground floor level, against which the modern appearance of the proposal would not be out of place. Commercial advertising banners hang from lamp posts. At upper floor levels, three-dimensional sculptural adverts are mounted on the buildings. Neither the siting nor appearance of the proposal would cause any harm to the character or appearance of this locality, or to the significance of the nearby conservation area and would be consistent with Camden Local Plan policies D1 and D2 seeking a high quality of design, respecting local quality and character, integrating well with its surroundings and preserving the character of the nearby conservation area.

12. Although not evident on the day of my site visit, I am aware that crowds throng Camden High Street at the various times indicated in the Council's officer report and that a wide, clear, area of pavement is necessary to cope safely with the numbers of people. But the proposal would be sited on an area of pavement exceptionally widened to prevent parking and loading at a road junction. To either side of the junction, north and south, granite setts denote loading bays. When in use, these would obstruct pedestrian flow along the street far more than the telephone kiosk proposed. Moreover, the widened section of pavement is already provided with 1m square seating boxes and litter bins which provide obstructions to pedestrian flow. It is clear to me that the siting of the proposal has been chosen to take advantage of a section of paving which is intended for stationary pedestrian activities and is therefore appropriate. In this regard, its siting would comply with Local Plan policy T1 which, amongst other matters, seeks to ensure that pavements are wide enough for the number of people expected to use them.
13. I accept the comments of the police that the siting of this proposal, at right angles to the movement of people along the street rather than parallel to the kerb, together with its sizeable appearance, would provide opportunities for criminals to approach users of the kiosk unseen and so would present a risk to personal security. I also accept that the appearance of the kiosk does not appear to comply fully with British Standard 8300 for design of an accessible and inclusive built environment, referenced by the Council. In these respects the siting and appearance of the proposal would not comply with aspects of Local plan policies T1 requiring a safe pedestrian environment, C5 aiming to make Camden a safer place and C6 seeking to remove the barriers that prevent everyone from accessing facilities and opportunities. I conclude that, even if this proposal had fallen within the terms of the GPDO, I would have dismissed the appeal in any event because its siting and appearance would have been unacceptable in relation to those considerations.

*Appeal B – 1 Haverstock Hill*

14. Although this proposal is for a different type of phone box and so its appearance would be different, its siting would be identical to that previously considered in appeal reference APP/X5210/W/18/3211259, dismissed on 28 August 2019. Although the appearance of the proposal would be less bulky than the proposal considered in that appeal, I share the view expressed therein that the proposal would detract from and to some extent be incongruous with the tiled flank wall of the listed Underground station against which the proposal

would be seen. Although the Underground station does have commercial elements within and adjacent to it, these are concentrated on its Adelaide Road frontage. By contrast, the character of its frontage and that of adjoining properties on Haverstock Hill is one lacking commercial or otherwise active frontage. Consequently, both the siting and appearance of the proposal, involving a display panel, would be inconsistent with Camden Local Plan policy D1 seeking a high quality of design, respecting local quality and character, integrating well with its surroundings.

15. Moreover, the proposal would be sited on a part of the pavement which is narrowing as the kerb line recedes to form a bus stop layby. Although the parties disagree about the precise dimensions of the pavement, which would vary according to precisely where the measurement is taken, even the appellant's own submitted information shows that the effective width of the pavement would be reduced from 3.7m to 1.8m. This would be less than that commonly accepted as adequate for any location, let alone that where the evidence suggests a sizeable pedestrian flow from the Underground station and from the nearby secondary school at certain times of day. I therefore conclude that the siting of the proposal would not comply with Local Plan policy T1 which, amongst other matters, seeks to ensure that pavements are wide enough for the number of people expected to use them.
16. As with appeal A, the proposal would be sited at right angles to the pavement rather than aligned with the kerb which, together with its sizeable appearance, would provide opportunities for criminals to approach users of the kiosk unseen and so would present a risk to personal security. Its appearance does not comply fully with British Standard 8300 for design of an accessible and inclusive built environment, referenced by the Council. In these respects the siting and appearance of the proposal would not comply with aspects of Local plan policies T1 requiring a safe pedestrian environment, C5 aiming to make Camden a safer place and C6 seeking to remove the barriers that prevent everyone from accessing facilities and opportunities.
17. I conclude that, even if this proposal had fallen within the terms of the GPDO, I would have dismissed the appeal in any event because its siting and appearance would have been unacceptable in relation to the considerations set out above.

*Appeal C – 24 Haverstock Hill*

18. Although this proposal is for a different type of phone box and so its appearance would be different, its siting would be identical to that previously considered in appeal reference APP/X5210/W/18/3211264, allowed on 28 August 2019. That appeal concluded that the proposal then being considered did not clearly facilitate a dual purpose. It appeared as being solely for the purpose of the operator's electronic communications network. By contrast, the proposal before me clearly includes a display panel.
19. This location shares with appeal B a location which is one generally lacking a commercial or active frontage and so, notwithstanding the conclusion reached in appeal APP/X5210/W/18/3211264 that that proposed call box would not materially affect the quality of the street scene, my conclusion is that the siting of a call box here, involving a display panel, would be inconsistent with the generally non-commercial character of the site and so would be contrary to



Camden Local Plan policy D1 seeking a high quality of design, respecting local quality and character, integrating well with its surroundings.

20. On the other hand, although the parties dispute the width of pavement which would be left unobstructed by the proposal, I have no reason to disagree with the previous appeal assessment that the residual free area would be adequate to cope with the flow of pedestrians. I therefore conclude that, in this respect, the siting of the proposal would comply with Local Plan policy T1 which, amongst other matters, seeks to ensure that pavements are wide enough for the number of people expected to use them.
21. As with appeal A, the proposal would be sited at right angles to the pavement rather than aligned with the kerb which, together with its sizeable appearance, would provide opportunities for criminals to approach users of the kiosk unseen and so would present a risk to personal security. Its appearance does not comply fully with British Standard 8300 for design of an accessible and inclusive built environment, referenced by the Council. In these respects the siting and appearance of the proposal would not comply with aspects of Local plan policies T1 requiring a safe pedestrian environment, C5 aiming to make Camden a safer place and C6 seeking to remove the barriers that prevent everyone from accessing facilities and opportunities.
22. I conclude that, even if this proposal had fallen within the terms of the GPDO, I would have dismissed the appeal in any event because its siting and appearance would have been unacceptable in relation to the considerations set out above.

*Appeal D – 88 Avenue Road*

23. The character of this location is set by the wide (five-lane and bus lay-by) width of Avenue Road, the simple, extensive form and monotonous façade treatment of the Grade II listed Swiss Cottage Library behind the appeal site and the seven storey bulk of Regency Lodge and the rear of the Odeon Cinema opposite. Although the large scale of the space and its civic character is somewhat tarnished by the commercial signage associated with the car park in the base of Regency Lodge, the space could easily absorb a substantial piece of street furniture such as the proposed kiosk without harm to its character.
24. However, the impressive regiment of concrete fins which articulates the façade of the listed building sits upon a recessed podium within a setting of hedging and street trees. This setting is already compromised by the bus stop, bus shelter and advertisement hoarding standing in front of one of the entrances to the building. These give a clear indication of how the setting of the listed building would be further harmed by the siting of the phone kiosk including a display panel in front of the listed building, notwithstanding the clean modern lines of the kiosk otherwise complementing the modernity of the listed building. I therefore conclude that the siting of the kiosk would harm the setting of the listed building and hence the character of the area and would be contrary to Camden Local Plan policies D1 and D2 seeking a high quality of design, respecting local quality and character, integrating well with its surroundings and preserving the setting of designated heritage assets.
25. Commentary from the police asserts that this footway has a high pedestrian footfall. I daresay that might be true of the part of the street to the north,



between the Library and bus stop and the tube station and shopping centre but I am not convinced that it would hold true of the footway where the proposal is to be sited. In any event, immediately to the north, the footway is considerably narrowed by a bus layby and shelter to a far greater degree than would occur as a result of the siting of the phone kiosk proposed. The width of the footway left clear by the proposal would be adequate for even the highest footfall. I therefore conclude that, in this respect, the siting of the proposal would comply with Local Plan policy T1 which, amongst other matters, seeks to ensure that pavements are wide enough for the number of people expected to use them.

26. As with appeal A, the proposal would be sited at right angles to the pavement rather than aligned with the kerb which, together with its sizeable appearance, would provide opportunities for criminals to approach users of the kiosk unseen and so would present a risk to personal security. Its appearance does not comply fully with British Standard 8300 for design of an accessible and inclusive built environment, referenced by the Council. In these respects the siting and appearance of the proposal would not comply with aspects of Local plan policies T1 requiring a safe pedestrian environment, C5 aiming to make Camden a safer place and C6 seeking to remove the barriers that prevent everyone from accessing facilities and opportunities.
27. I conclude that, even if this proposal had fallen within the terms of the GPDO, I would have dismissed the appeal in any event because its siting and appearance would have been unacceptable in relation to the considerations set out above.

*Appeal E – 27/28 Chalk Farm Road*

28. Although this proposal is for a different type of phone box and so its appearance would be different, its siting would be identical to that previously considered in appeal reference APP/X5210/W/18/3211264, allowed on 19 December 2018. That appeal did not consider whether the proposal then in contention facilitated a dual purpose or not. Its accompanying drawings gave no indication of an advertisement display. It was treated as being solely for the purpose of the operator's electronic communications network. By contrast, the proposal before me clearly includes a display panel.
29. This proposal would be sited a few yards outside the boundary of the Regent's Canal Conservation Area which occupies a narrow strip of land opposite the site. But the essential character of the Conservation Area is that it concerns development associated with the canal and related railway. It turns its back on Chalk Farm Road itself. The immediate surroundings of the location comprise early Victorian flat fronted terraces with commercial frontages. There are modern shopfronts at ground floor level, against which the modern appearance of the proposal would not be out of place.
30. Neither the siting nor appearance of the proposal would cause any harm to the character or appearance of this locality, or to the significance of the nearby conservation area and would be consistent with Camden Local Plan policies D1 and D2 seeking a high quality of design, respecting local quality and character, integrating well with its surroundings and preserving the character of the nearby conservation area.

31. Although not evident on the day of my site visit, I am aware that crowds throng Chalk Farm Road at various times and that a wide, clear, area of pavement is necessary to cope safely with the numbers of people. But the proposal would be sited on an area of pavement exceptionally widened to prevent parking and loading at a road junction. To either side of the junction, north and south, granite setts denote loading bays. When in use, these would obstruct pedestrian flow along the street far more than the telephone kiosk proposed. Moreover, the widened section of pavement is already provided with 1m square seating boxes and litter bins which provide obstructions to pedestrian flow. It is clear to me that the siting of the proposal has been chosen to take advantage of a section of paving which is intended for stationary pedestrian activities and is therefore appropriate. Its siting would comply with Local Plan policy T1 which, amongst other matters, seeks to ensure that pavements are wide enough for the number of people expected to use them.
32. I accept the comments of the police that the siting of this proposal, at right angles to the movement of people along the street rather than parallel to the kerb, together with its sizeable appearance, would provide opportunities for criminals to approach users of the kiosk unseen and so would present a risk to personal security. I also accept that the appearance of the kiosk does not appear to comply fully with British Standard 8300 for design of an accessible and inclusive built environment, referenced by the Council. In these respects the siting and appearance of the proposal would not comply with aspects of Local plan policies T1 requiring a safe pedestrian environment, C5 aiming to make Camden a safer place and C6 seeking to remove the barriers that prevent everyone from accessing facilities and opportunities. I conclude that, even if this proposal had fallen within the terms of the GPDO, I would have dismissed the appeal in any event because its siting and appearance would have been unacceptable in relation to those considerations.

*P. W. Clark*

Inspector



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## Appeal Decisions

Site visit made on 10 May 2018

**by C L Humphrey BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> May 2018**

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### **Appeal A - Ref: APP/H5390/W/17/3192440 Outside 442 Uxbridge Road, London W12 0NS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00970/TEL56, dated 9 March 2017, was refused by notice dated 28 June 2017.
  - The development proposed is 'Replacement Telephone Kiosk.'
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### **Appeal B - Ref: APP/H5390/Z/17/3192478 Outside 442 Uxbridge Road, London W12 0NS**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00971/ADV, dated 9 March 2017, was refused by notice dated 11 December 2017.
  - The advertisement proposed is 'Internally illuminated digital panel as integral part of Telephone Kiosk.'
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## Decisions

### *Appeal A*

1. The appeal is allowed and approval is granted under the provisions of Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a replacement telephone kiosk at land outside 442 Uxbridge Road, London W12 0NS in accordance with the terms of the application Ref 2017/00970/TEL56, dated 9 March 2017, and the plans and documents submitted with it.

### *Appeal B*

2. The appeal is dismissed.

## Preliminary Matters

3. Policies from the Core Strategy, Development Management Local Plan and Planning Guidance Supplementary Planning Document set out in the Council's decision notices have now been replaced by policies from the Local Plan (LP)

and Planning Guidance Supplementary Planning Document (SPD), which were adopted in February 2018 after the appeals were submitted. The design, heritage conservation and enhancement and amenity protection aims of both sets of policies are similar so neither party has been prejudiced by this change in policy circumstances.

4. Although not determinative in the case of either appeal, I have had regard to these policies as a material consideration insofar as they are relevant to the appeal proposals.

### **Main Issues**

5. The main issue in Appeal A is the effect of the siting and appearance of the proposed telephone kiosk upon the character and appearance of the area.
6. The main issues in Appeal B are the effect of the proposed advertisement upon amenity and public safety.

### **Reasons**

#### *Appeal A*

7. The appeal proposal would replace an existing kiosk and would be sited in the same position, close to the outside edge of the footway. It would be an open sided structure with a similar height and footprint to the existing kiosk, and the black finish would reflect the predominantly dark coloured street furniture in the surrounding area. Accordingly the proposal would not add to clutter and would be no more visually prominent than the existing kiosk, assimilating well into the street scene.
8. The Council's delegated report refers to appeals relating to telephone kiosks on Goldhawk Road and Lillie Road. However, I have not been provided with details of these other cases and so cannot draw comparisons with the appeal proposal. Besides, I must determine the appeal on its own merits and have done so.
9. For the reasons set out above I conclude that the siting and appearance of the proposed telephone kiosk would not have a harmful effect upon the character and appearance of the area. Therefore, the appeal proposal would accord with the design aims of Policy 6.10B of the London Plan and LP Policies DC1, DC2 and DC10.

#### *Appeal B*

10. The Planning Practice Guidance<sup>1</sup> states that, in assessing amenity, regard should be had to the local characteristics of the neighbourhood. This part of Uxbridge Road comprises a wide range of retail and other commercial uses with associated advertisements, some of which are illuminated. However, these are generally fascia signs on the ground floor units, whilst roadside adverts in the vicinity are confined to posters within bus shelters and some telephone kiosks.
11. The proposed advertisement would be incorporated in a modest freestanding structure in a prominent roadside location facing west down a long and straight stretch of Uxbridge Road. It would therefore be highly visible in long-range views along the street. The display of a sequential series of static digital images would be conspicuous and eye-catching and would not integrate successfully

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<sup>1</sup> Paragraph: 079 Reference ID: 18b-079-20140306

into the street scene. As a result, while the luminance level and rate of image transition could be controlled by condition, the appeal proposal would nevertheless create an isolated and discordant feature.

12. The appellant has referred to a number of existing and consented adverts in the surrounding area. However, based on the evidence before me and my observations on site, there are no digital adverts in situ or with extant consent on the same side of the road in the immediate vicinity of the appeal site, and it is within this context that I have considered the appeal proposal. Whilst I note the Inspectors' findings in respect of the digital nature of advertisement displays in a number of other appeals<sup>2</sup>, I do not have full details of these cases and so am not able to make comparisons with the appeal proposal. In any event, I must determine the appeal on its own merits and have done so.
13. Whilst not a reason for refusal, I note that the Council's Highways officer objected to the proposal and that the delegated report states 'the introduction of an LED screen at this point could result in an increase in driver distraction and accordingly be a risk to pedestrian safety.' Given the horizontal and vertical alignment of this section of Uxbridge Road, east-bound drivers would be afforded ample advanced sight of the advertisement so the proposed display would not present a distraction for drivers taking reasonable care. I therefore conclude that the proposed advertisement would not have a harmful effect upon public safety. However, an absence of harm in this regard is a neutral matter which does not weigh for or against the proposal.
14. For the reasons set out above, I conclude that the proposed advertisement would have a harmful effect upon amenity. Consequently, the proposal would fail to accord with the amenity protection aims of LP Policy DC9.

### **Conditions**

15. In respect of Appeal A, the Council has suggested the imposition of conditions including removal of the existing kiosk, a time limit on the commencement of development, compliance with approved details and removal of the proposed telephone kiosk when it is no longer required for telecommunications purposes. However, the existing kiosk would have to be removed to make way for the replacement kiosk and the other matters are covered by standard conditions set out in Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I do not consider that it is necessary to add to these standard conditions.
16. The Council has also suggested the imposition of a condition preventing the glazed panels in the kiosk being used for the display of advertisements. However, the issues under consideration in respect of Appeal A are the siting and appearance of the kiosk itself rather than of any advertising material. As such I do not consider it would be reasonable in this case to impose a condition which would add to the conditions and limitations set out in Schedule 3, Part 1, Class 16 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

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<sup>2</sup> lead case APP/R5510/Z/16/3157043, APP/V5570/Z/17/3169006 and APP/V5570/Z/17/3167080

## **Conclusions**

17. For the reasons set out above and having regard to all other matters raised, I conclude that Appeal A should be allowed and Appeal B should be dismissed.

*CL Humphrey*

INSPECTOR





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## Appeal Decisions

Site visit made on 10 May 2018

by **C L Humphrey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> May 2018

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### **Appeal A - Ref: APP/H5390/W/17/3192437** **Outside 156 Uxbridge Road, London W12 8AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application 2017/00966/TEL56, dated 9 March 2017, was refused by notice dated 28 June 2017.
  - The development proposed is 'Replacement Telephone Kiosk.'
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### **Appeal B - Ref: APP/H5390/Z/17/3192472** **Outside 156 Uxbridge Road, London W12 8AA**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00967/ADV, dated 9 March 2017, was refused by notice dated 11 December 2017.
  - The advertisement proposed is 'Internally illuminated digital panel as integral part of Telephone Kiosk.'
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## Decisions

### *Appeal A*

1. The appeal is allowed and approval is granted under the provisions of Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a replacement telephone kiosk at land outside 156 Uxbridge Road, London W12 8AA in accordance with the terms of the application Ref 2017/00966/TEL56, dated 9 March 2017, and the plans and documents submitted with it.

### *Appeal B*

2. The appeal is dismissed.

## Preliminary Matters

3. Policies from the Core Strategy, Development Management Local Plan and Planning Guidance Supplementary Planning Document set out in the Council's decision notices have now been replaced by policies from the Local Plan (LP)

and Planning Guidance Supplementary Planning Document (SPD), which were adopted in February 2018 after the appeals were submitted. The design, heritage conservation and enhancement and amenity protection aims of both sets of policies are similar so neither party has been prejudiced by this change in policy circumstances. Although not determinative in the case of either appeal, I have had regard to these policies as a material consideration insofar as they are relevant to the appeal proposals.

### **Main Issues**

4. The appeal site is an area of footway on the north side of Uxbridge Road within Shepherds Bush Conservation Area (CA), which is characterised by the mixture of employment, shopping, leisure and residential development focussed around Shepherds Bush Common.
5. In the case of Appeal A the main issue is whether the siting and appearance of the proposed telephone kiosk would preserve or enhance the character or appearance of the CA and its effect upon the significance of the adjacent non-designated heritage assets at 156-162 Uxbridge Road.
6. The main issue in Appeal B is the effect of the proposed advertisement upon amenity, with particular regard to the character and appearance of the CA and the significance of the adjacent non-designated heritage assets located at 156-162 Uxbridge Road.

### **Reasons**

#### *Appeal A*

7. The appeal proposal would replace an existing kiosk and would be sited in the same position, close to the outside edge of the footway. It would be open sided with a similar height and footprint as the existing structure, and the black finish would reflect the predominantly dark coloured street furniture in the area. As a result the proposal would not add to clutter and would be no more visually prominent than the existing kiosk, integrating well into the street scene.
8. The Council's delegated report refers to appeals relating to telephone kiosks on Goldhawk Road and Lillie Road. However, I have not been provided with details of these other cases and so cannot draw comparisons with the appeal proposal. Besides, I must determine the appeal on its own merits and have done so.
9. For the reasons set out above I conclude that the siting and appearance of the proposed telephone kiosk would preserve the character and appearance of the CA and that it would not have a harmful effect upon the significance of the adjacent non-designated heritage assets at 156-162 Uxbridge Road. Therefore, the appeal proposal would accord with the design and heritage conservation and enhancement aims of Policy 6.10 of the London Plan, LP Policies DC1, DC2, DC8 and DC10 and SPD Policies CAG2 and CAG3.

#### *Appeal B*

10. The Planning Practice Guidance<sup>1</sup> states that, in assessing amenity, regard should be had to the local characteristics of the neighbourhood. Uxbridge Road is a bustling street comprising a wide range of retail and commercial uses with associated advertisements, many of which are illuminated. However, these are

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<sup>1</sup> Paragraph: 079 Reference ID: 18b-079-20140306

generally fascia signs on the ground floor units, whilst roadside adverts in the vicinity are confined to posters within some kiosks. Shepherds Bush Common lies opposite the site and this large open green space provides a quiet backdrop to the surrounding built form.

11. The proposed advertisement would be incorporated in a freestanding structure in a prominent roadside location facing west down a long and straight stretch of Uxbridge Road. Thus, it would be highly visible in long-range views along the street and towards the adjacent non-designated heritage assets and Common. The display of a sequential series of static digital images would be vivid and conspicuous, and would not assimilate well into the street scene. Thus, although the luminance level and rate of image transition could be controlled by condition, the appeal proposal would nevertheless create an isolated and discordant feature.
12. The appellant has referred to a number of digital adverts on bus shelters which have been granted consent at various locations in the wider area. I do not have full details of these cases although, based upon the submitted evidence, these other sites are between 170 – 275m from the appeal site. Consequently I cannot draw comparisons with the individual site circumstances of the case before me. Whilst I note the Inspectors' findings in respect of the digital nature of advertisement displays proposed in a number of appeals<sup>2</sup>, I do not have full details of these cases and so cannot make comparisons with the appeal proposal. In any event, I must determine the appeal on its own merits and have done so.
13. For the reasons set out above, I conclude that the proposed advertisement would have a harmful effect upon amenity, would fail to preserve or enhance the character and appearance of the CA and would have a harmful effect upon the significance of the adjacent non-designated heritage assets located at 156-162 Uxbridge Road. Consequently, the proposal would fail to accord with the amenity protection and heritage conservation and enhancement aims of LP Policies DC8 and DC9.

## Conditions

14. In respect of Appeal A, the Council has suggested the imposition of conditions including removal of the existing kiosk, a time limit on the commencement of development, compliance with approved details and removal of the proposed telephone kiosk when it is no longer required for telecommunications purposes. However, the existing kiosk would have to be removed to make way for the replacement kiosk and the other matters are covered by standard conditions set out in Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I do not consider that it is necessary to add to these standard conditions.
15. The Council has also suggested the imposition of a condition preventing the glazed panels in the kiosk being used for the display of advertisements. However, the issues under consideration in respect of Appeal A are the siting and appearance of the kiosk itself rather than of any advertising material. As such I do not consider it would be reasonable in this case to impose a condition which would add to the conditions and limitations set out in Schedule 3, Part 1,

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<sup>2</sup> lead case APP/R5510/Z/16/3157043, APP/V5570/Z/17/3169006 and APP/V5570/Z/17/3167080

Class 16 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

**Conclusions**

16. For the reasons set out above and having regard to all other matters raised, I conclude that Appeal A should be allowed and Appeal B should be dismissed.

*CL Humphrey*

INSPECTOR



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## Appeal Decisions

Site visit made on 10 May 2018

by **C L Humphrey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> May 2018

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### **Appeal A - Ref: APP/H5390/W/17/3192419 Outside 74 Shepherd's Bush Road, London W6 7PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00974/TEL56, dated 9 March 2017, was refused by notice dated 28 June 2017.
  - The development proposed is 'Replacement Telephone Kiosk'.
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### **Appeal B - Ref: APP/H5390/Z/17/3192470 Outside 74 Shepherd's Bush Road, London W6 7PH**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00978/ADV, dated 9 March 2017, was refused by notice dated 11 December 2017.
  - The advertisement proposed is 'Internally illuminated digital panel as integral part of Telephone Kiosk.'
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## Decisions

### *Appeal A*

1. The appeal is allowed and approval is granted under the provisions of Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a replacement telephone kiosk at land outside 74 Shepherd's Bush Road, London W6 7PH in accordance with the terms of the application Ref 2017/00974/TEL56, dated 9 March 2017, and the plans and documents submitted with it.

### *Appeal B*

2. The appeal is dismissed.

## Preliminary Matters

3. Policies from the Core Strategy, Development Management Local Plan and Planning Guidance Supplementary Planning Document set out in the Council's decision notices have now been replaced by policies from the Local Plan (LP)

and Planning Guidance Supplementary Planning Document (SPD), which were adopted in February 2018 after the appeals were submitted. The design, heritage conservation and enhancement and amenity protection aims of both sets of policies are similar so neither party has been prejudiced by this change in policy circumstances. Although not determinative in either appeal, I have had regard to these policies as a material consideration insofar as they are relevant to the proposals.

### **Main Issues**

4. The appeal site is an area of footway on the west side of Shepherd's Bush Road within Melrose Conservation Area (CA), which derives its character from the late 19th century residential terraces within its core and the terraces with ground floor retail units lining Shepherd's Bush Road at its eastern boundary.
5. In the case of Appeal A the main issue is whether the siting and appearance of the proposed telephone kiosk would preserve or enhance the character or appearance of the CA.
6. The main issue in Appeal B is the effect of the proposed advertisement upon amenity and whether it would preserve or enhance the character or appearance of the CA.

### **Reasons**

#### *Appeal A*

7. The appeal proposal would replace an existing kiosk and would be positioned in the same location, set in slightly from the edge of the generous footway. The new kiosk would be open sided with a comparable height and footprint as the existing structure, and the black finish and straightforward design would reflect nearby street furniture. As a result the proposal would be no more visually intrusive than the existing kiosk and would integrate well into the street scene.
8. Whilst the Council's delegated report refers to appeal decisions relating to telephone kiosks on Goldhawk Road and Lillie Road I have not been provided with full details of these cases, and so cannot draw comparisons with the appeal proposal before me. In any event, I must determine the appeal on its own merits and have done so.
9. For the reasons set out above I conclude that the siting and appearance of the proposed telephone kiosk would preserve the character and appearance of the CA. Consequently, the appeal proposal would accord with the design and heritage conservation and enhancement aims of London Plan Policy 6.10B, LP Policies DC1, DC2, DC8 and DC10 and SPD Policies CAG2 and CAG3.

#### *Appeal B*

10. The Planning Practice Guidance<sup>1</sup> states that, in assessing amenity, regard should be had to the local characteristics of the neighbourhood. Whilst development along the western side of Shepherd's Bush Road comprises a range of retail and commercial uses with associated advertisements, some of which are illuminated, these are mostly fascia signs on the ground floor units. Roadside adverts are limited to the static non-illuminated posters within the existing telephone kiosk and a digital display integrated into the bus shelter to

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<sup>1</sup> Paragraph: 079 Reference ID: 18b-079-20140306

the north. Development on the opposite side of the road principally comprises residential uses, mature trees line the road and, overall, the area has a fairly subdued appearance.

11. The proposed advertisement would be incorporated in a freestanding kiosk situated in a prominent roadside location near the pedestrian refuge which provides a crossing point over Shepherd's Bush Road, and would face south down the road. The display of a sequential series of static digital images on this structure would be vibrant and conspicuous, and the proposal would be highly visible to pedestrians crossing the road and in long-range views from the south. Therefore, while the luminance level and the rate of image transition could be controlled by condition, the advertisement would create an isolated and inharmonious feature in the street scene.
12. The appellant has referred to the Inspectors' findings in respect of the digital nature of advertisement displays proposed in a number of appeals<sup>2</sup>. I do not have full details of these cases and so am unable to draw comparisons with the appeal proposal. Besides, I must determine the appeal on its own merits.
13. For the foregoing reasons, I conclude that the proposed advertisement would have a harmful effect upon amenity and would fail to preserve or enhance the character and appearance of the CA. Therefore, the proposal would not accord with the amenity protection and heritage conservation and enhancement aims of LP Policies DC8 and DC9.

### **Conditions**

14. In respect of Appeal A, the Council has suggested the imposition of conditions including removal of the existing kiosk, a time limit on the commencement of development, compliance with approved details and removal of the proposed telephone kiosk when it is no longer required for telecommunications purposes. However, the existing kiosk would have to be removed to make way for the replacement kiosk and the other matters are covered by standard conditions set out in Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I do not consider that it is necessary to add to these standard conditions.
15. The Council has also suggested the imposition of a condition preventing the glazed panels in the kiosk being used for the display of advertisements. However, the issues under consideration in respect of Appeal A are the siting and appearance of the kiosk itself rather than of any advertising material. As such I do not consider it would be reasonable in this case to impose a condition which would add to the conditions and limitations set out in Schedule 3, Part 1, Class 16 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

### **Conclusions**

16. For the reasons set out above and having regard to all other matters raised, I conclude that Appeal A should be allowed and Appeal B should be dismissed.

*CL Humphrey*  
INSPECTOR

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<sup>2</sup> lead case APP/R5510/Z/16/3157043, APP/V5570/Z/17/3169006 and APP/V5570/Z/17/3167080





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## Appeal Decisions

Site visit made on 10 May 2018

by **C L Humphrey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> May 2018

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### **Appeal A - Ref: APP/H5390/W/17/3188594** **Outside 88-90 North End Road, London W14 9EY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00979/TEL56, dated 9 March 2017, was refused by notice dated 29 June 2017.
  - The development proposed is 'Replacement Telephone Kiosk'.
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### **Appeal B - Ref: APP/H5390/Z/17/3188471** **Outside 88-90 North End Road, London W14 9EY**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2017/00981/ADV, dated 9 March 2017, was refused by notice dated 8 September 2017.
  - The advertisement proposed is 'Internally illuminated digital panel as integral part of Telephone Kiosk.'
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## Decisions

### *Appeal A*

1. The appeal is allowed and approval is granted under the provisions of Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a replacement telephone kiosk at land outside 88-90 North End Road, London W14 9EY in accordance with the terms of the application Ref 2017/00979/TEL56, dated 9 March 2017, and the plans and documents submitted with it.

### *Appeal B*

2. The appeal is dismissed.

## Preliminary Matters

3. Policies from the Core Strategy, Development Management Local Plan and Planning Guidance Supplementary Planning Document set out in the Council's decision notices have now been replaced by policies from the Local Plan (LP)

and Planning Guidance Supplementary Planning Document (SPD), which were adopted in February 2018 after the appeals were submitted. The design, heritage conservation and enhancement and amenity protection aims of both sets of policies are similar so neither party has been prejudiced by this change in policy circumstances.

4. Although not determinative in the case of either appeal, I have had regard to these policies as a material consideration insofar as they are relevant to the appeal proposals.

### **Main Issues**

5. The appeal site is an area of footway on the west side of North End Road within Barons Court Conservation Area (CA), which is characterised by unified groups of residential development laid out in a tightly-knit grid pattern, together with Barons Court and West Kensington Underground Stations and the open space of Hammersmith Cemetery.
6. In the case of Appeal A the main issue is whether the siting and appearance of the proposed telephone kiosk would preserve or enhance the character or appearance of the CA.
7. The main issue in Appeal B is the effect of the proposed advertisement upon amenity and whether it would preserve or enhance the character or appearance of the CA.

### **Reasons**

#### *Appeal A*

8. The appeal proposal would replace an existing kiosk and would be constructed in the same position, sited close to the edge of the footway. It would be open sided with a similar height and footprint as the existing structure, and the black finish would reflect street furniture in the vicinity. As a result the proposal would be no more visually prominent than the existing kiosk, would assimilate well into the street scene and would not add to clutter.
9. For the reasons set out above I conclude that the siting and appearance of the proposed telephone kiosk would preserve the character and appearance of the CA. The appeal proposal would therefore accord with the design and heritage conservation and enhancement aims of Policy 6.10 of the London Plan, LP Policies DC1, DC2, DC8 and DC10 and SPD Policies CAG2 and CAG3.

#### *Appeal B*

10. The Planning Practice Guidance<sup>1</sup> states that, in assessing amenity, regard should be had to the local characteristics of the neighbourhood. Although North End Road comprises a wide range of retail and commercial uses with associated advertisements, some of which are illuminated, these are generally fascia signs on ground floor units. Roadside adverts are limited to static internally illuminated posters within the bus shelters to the north and south.
11. The proposed advertisement would be incorporated in a freestanding structure situated in a prominent roadside location near the pedestrian crossing outside West Kensington Station and would face east across North End Road. Thus,

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<sup>1</sup> Paragraph: 079 Reference ID: 18b-079-20140306

although not particularly visible in long-range views, the proposal would be highly conspicuous from the eastern side of the road and the crossing. The display of a sequential series of static digital images on this structure would be prominent and eye-catching. Consequently, although the luminance level and rate of image transition could be controlled by condition, the appeal proposal would create an isolated and inharmonious feature in the street scene.

12. The appellant has referred to the Inspectors' findings regarding the digital nature of advertisement displays proposed in a number of appeals<sup>2</sup>. I do not have full details of these cases and so cannot make comparisons with the appeal proposal. In any event, I must determine the appeal on its own merits and have done so.
13. For the reasons set out above, I conclude that the proposed advertisement would have a harmful effect upon amenity and would fail to preserve or enhance the character and appearance of the CA. Consequently, the proposal would be contrary to the amenity protection and heritage conservation and enhancement aims of LP Policies DC8 and DC9.

### **Conditions**

14. In respect of Appeal A, I do not consider that it is necessary to add to the standard conditions set out in Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

### **Conclusions**

15. For the reasons set out above and having regard to all other matters raised, I conclude that Appeal A should be allowed and Appeal B should be dismissed.

*CL Humphrey*

INSPECTOR

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<sup>2</sup> lead case APP/R5510/Z/16/3157043, APP/V5570/Z/17/3169006 and APP/V5570/Z/17/3167080



## Appeal Decision

Site visit made on 30 April 2019

**by JP Tudor BA (Hons), Solicitor (non-practising)**

an Inspector appointed by the Secretary of State

Decision date: 28 June 2019

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**Appeal Ref: APP/X5210/H/18/3216030**

**Land adjacent to the Roundhouse Theatre, Chalk Farm Road,  
London NW1 8EH**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a failure to give notice within the prescribed period of a decision on an application for express consent to display an advertisement.
  - The appeal is made by The Roundhouse Theatre against the Council of the London Borough of Camden.
  - The application Ref: 2018/3151/A is dated 4 July 2018. The advertisement proposed is replacement of two existing illuminated advertising billboards with one digital LED illuminated billboard.
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### Decision

1. The appeal is dismissed and express consent for replacement of two existing illuminated advertising billboards with one digital LED illuminated billboard is refused.

### Preliminary Matters

2. The appeal was lodged on the basis of a failure by the Council to give notice of its decision within the prescribed period. Although the Council's questionnaire and appeal statement appear to suggest that the Council refused the consent on 19 November 2018, that was after the appeal was made and no copy of the Council's decision notice has been supplied or further explanation provided. In the circumstances, I have treated the appeal as a non-determination case.
3. The display of advertisements is subject to a separate consent process within the planning system. The governing Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) advise that the relevant powers are to be exercised in the interests of 'amenity' and 'public safety', whilst taking into account the provisions of the development plan, so far as they are material, and any other relevant factors.<sup>1</sup> The Council indicates that it would have refused the proposal because of concerns about effects on the visual amenity of the area and public safety. Therefore, I have considered the appeal on that basis.
4. The application indicates that the advertisement consent is sought for a temporary period of 3 years, leading up to the already approved redevelopment of the site.

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<sup>1</sup> Regulation 3(1)

## Main Issues

5. The main issues are the effects of the proposed digital LED illuminated advertisement board on:
  - the visual amenity of the area, with particular regard to the settings of 'The Roundhouse', a Grade II\* listed building, and the adjacent Regent's Canal Conservation Area (RCCA); and,
  - the public safety of road users.

## Reasons

### *Visual amenity of the area*

6. The appeal site comprises a parcel of land adjoining the Grade II\* listed Roundhouse theatre, a performing arts and concert venue. Originally, a goods locomotive turning shed, built in 1846-1847 for the London and North Western Railway, the Roundhouse was first converted for use as a theatre in 1967. Although the site is outside it, the RCCA lies just to the southeast and includes the Roundhouse.
7. A digital screen advertisement 96 sheet display board would be placed at the northern corner of the site, facing towards the junction of Chalk Farm Road, Regent's Park Road, Adelaide Road, Haverstock Hill and Crogsland Road. It would replace two internally illuminated advertising boards, which comprise a 96 sheet display fronting onto Chalk Farm Road and a 48 sheet display facing Regent's Park Road. It is understood that the existing advertising boards have never received formal consent but attract deemed consent as they have been *in situ* for over 10 years. However, whilst the appellant says they could remain indefinitely, the Council advises that they could be subject to discontinuance action.
8. Travelling from the north-west on Haverstock Hill, there are good views of the iconic Roundhouse theatre and its distinctive conical roof, within the RCCA. As one draws closer, the Grade II listed Chalk Farm Underground Station also comes into the field of vision, on the right. As a consequence of their size and height off the ground, the two existing advertising panels, rising above a London brick boundary wall and a timber fence, already dominate the foreground and degrade public views towards the historic Roundhouse, significantly obscuring the upper parts of the listed building.
9. The appellant says that the site is a well-established advertising location having operated for many years. However, the planning history appears to comprise various refused applications for advertising hoardings and associated enforcement cases. The Council advises that its position is to resist such advertising hoardings, where they are considered to be unsympathetic to their surroundings. In any event, I consider that the scale and position of the existing advertising boards have a detrimental effect on the character and appearance of the area, particularly in relation to the setting of the Grade II\* listed Roundhouse. Given those factors, as far as setting a desirable precedent for the current proposal, I give the pre-existing advertisements limited weight.
10. Although the existing back-lit vinyl displays would be removed, they would be replaced with a 96 sheet LED digital display board, about 12.6 metres wide, 3.5 metres high and 0.6 metres deep, with its face measuring about 37 square

metres. Whilst the proposal would replace two boards with one and involve a net reduction of 48 sheets in the total area of advertising, the new board would be in a more central position on the corner, similarly high off the ground, and include a protruding baffle, at one end. Its LED method of illumination would, whilst in accordance with brightness levels in relevant guidelines, generally appear more obtrusive than back-lit vinyl hoardings. Furthermore, whilst the display images would be static and would not involve flashing lights, they would change every 10 seconds. Therefore, the proposed digital advertising board would appear prominent and obtrusive in public views and have an adverse visual effect on the setting of the listed building and the RCCA.

11. There is fascia signage on shops and commercial premises in the area and hoardings advertising shows and events on the main elevation of the entrance to the Roundhouse, slightly further along Chalk Farm Road. However, I did not see other large advertisement hoardings or LED digital displays, of the scale proposed, in the immediate locale. Whilst the appeal site is just outside the RCCA, I also note that the RCCA Appraisal and Management Strategy<sup>2</sup> advises that hoardings, because of their size and scale are not considered acceptable forms of advertising within the conservation area.
12. The appellant contends that the proposed advertising board would have a negligible effect on the listed Roundhouse, because it would not be attached to the building and would not be seen by people entering or exiting at the main entrance. However, as defined in the Glossary to the National Planning Policy Framework<sup>3</sup>, the settings of heritage assets, such as listed buildings or conservation areas, are the surroundings in which the heritage assets are experienced. Therefore, 'setting' is a potentially wider concept and can include views towards listed buildings and conservation areas, such as those from Haverstock Hill.
13. It is also suggested by the appellant that the temporary nature of the 3-year display period would provide certainty, compared with the current position relating to the existing advertisement boards. Whilst that may be, it would not legitimise causing harm to the visual amenity of the area, including the settings of heritage assets, for the duration of that period. The suggestion that the sign could be switched off during the night, from 2300 to 0700, would not sufficiently mitigate the adverse effects, notwithstanding the unrestricted hours of display of the existing hoardings.
14. Given the size, location and method of illumination, I conclude that the proposal would harm the visual amenity of the area, with particular regard to the settings of 'The Roundhouse', a Grade II\* listed building, and the adjacent Regent's Canal Conservation Area (RCCA).
15. I have taken into account policy D4 of the Camden Local Plan 2017 (CLP) and the supporting Camden Planning Guidance: Advertisements<sup>4</sup>, a Supplementary Planning Document (SPD), which seek to protect the character and amenity of an area and are, therefore, material in this case. The SPD also indicates that for digital billboards, locations near listed buildings may be unsuitable. Given that I have concluded that the digital illuminated billboard would harm visual amenity, the proposal conflicts with this policy and the supporting SPD.

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<sup>2</sup> Adopted 11 September 2008

<sup>3</sup> February 2019

<sup>4</sup> March 2018

*Public safety of road users*

16. The Council is concerned about the proximity of the site to the busy road junction. It refers to relevant Transport for London Guidance<sup>5</sup>, which suggests that digital advertising displays should be in the nearside view, that is to the left, as road users look ahead. It is submitted by the Council that road users heading from Haverstock Hill and Adelaide Road towards Chalk Farm Road would be distracted by the digital display. However, there would be limited views from Adelaide Road, and given the presence of traffic lights and road signage in the foreground, I do not consider that the advertisements would be likely to significantly distract road users or prejudice public safety, when approaching what is a clearly busy junction from those directions.
17. Crogsland Road is a narrower offshoot to the north, but again there is clear signage and traffic lights relating to a cycle lane. Drivers approaching a junction, with other traffic lights and a central reservation for pedestrians visible, can be expected to exercise a reasonable degree of caution. Therefore, although the advertising display would be visible on the far side of Chalk Farm Road, it would not obscure or significantly hinder the ready interpretation of the existing traffic signage or be to the detriment of road users, including cyclists and pedestrians.
18. Therefore, the proposal would not have an adverse effect on public safety or conflict with material CLP policies, such as policy D4, insofar as it seeks to ensure that advertisements should not compromise public safety by distracting road users or by reducing the effectiveness of traffic signage or signals.

**Conclusion**

19. The proposal includes a light baffle, which combined with the location of the advertising board, may mitigate potential light spill from affecting residents of the Stockholm Apartments to the east. However, that only arises as an actual clear benefit relative to the effects of the existing hoardings, the larger of which is nearer the apartments. The lack of a need for vehicles to attend the site to mechanically hoist the advertisements, as they do now, is also presented as beneficial, in terms of a reduction in vehicle movements and emissions. Whilst that limited benefit is acknowledged and it is accepted that the existing boards appear to attract deemed consent, I have already explained my reasons for giving limited weight to that precedent argument.
20. Overall therefore, whilst the proposal would not adversely affect the public safety of road users, the significant harm identified to the visual amenity of the area, with particular regard to the setting of the Grade II\* listed Roundhouse and the associated RCCA, is decisive.
21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed and that express consent should be refused.

*JP Tudor*

INSPECTOR

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<sup>5</sup> Guidance for Digital Roadside Advertising and Proposed Best Practice



## **Appendix J - Suggested conditions**

### Advertisement Consent application (2024/3453/A):

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. The advertisement display shall be statically illuminated and the intensity of the illumination of the digital signs shall not exceed 2000 candelas per square metre

during the day and 600 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 Professionals' Professional Lighting Guide 05: The Brightness of Illuminated Advertisements Including Digital Displays, 2023. 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 street scene 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 (Managing the impact of development), D1 (Design), D2 (Heritage), D4 (Advertisements), C5 (Safety and security) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017 and Transport for London Guidance for Digital Roadside Advertising 2013.

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 (Managing the impact of development), D4 (Advertisements), C5 (Safety and security) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017 and Transport for London Guidance for Digital Roadside Advertising 2013.

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 (Managing the impact of development), D4 (Advertisements), C5 (Safety and security) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017 and Transport for London Guidance for Digital Roadside Advertising 2013.

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 this part 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 (Managing the impact of development), D4 (Advertisements), C5 (Safety and security) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017 and Transport for London Guidance for Digital Roadside Advertising 2013.

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 (Managing the impact of development), D4 (Advertisements), C5 (Safety and security) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017 and Transport for London Guidance for Digital Roadside Advertising 2013.

11. Any footway and carriageway on the Transport for London Road Network (TLRN) and/or 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 (Managing the impact of development), D4 (Advertisements), C5 (Safety and security) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017 and Transport for London Guidance for Digital Roadside Advertising 2013

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 (Managing the impact of development) and A4 (Noise and vibration) of London Borough of Camden Local Plan 2017.

## **Appendix K - Suggested conditions**

### Full Planning Permission application (2024/3313/P):

1. The development hereby permitted shall begin not later than three years from the date of this decision.

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 and documents: (Cam-CFR1/2024/-)01 to 06 (inclusive); Planning and Heritage Statement from DPV Consult Limited (ref: DP/20075) dated 24/07/2024; Design, Management and Operational Statement from Urban Innovation Company dated 10/05/2024; Responsibilities Statement from Urban Innovation Company dated July 2024.

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 or electronic communications purposes.

Reason: - To safeguard the appearance and character of the immediate area in accordance with the requirements of policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

4. All new or replacement surface materials should match as closely as possible the existing adjacent surface materials.

Reason: - To safeguard the appearance and character of the immediate area in accordance with the requirements of policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.