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Your Ref: APP/X5210/W/24/3354413 &
APP/X5210/H/24/3354414
Our Ref: 2024/3310/P & 2024/3446/A

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The Planning Inspectorate
FAO. Zoe Day
Temple Quay House
2 The Square
Bristol BS1 6PN

Dear Zoe,

Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Town and Country Planning Act 1990
Appeals by Urban Innovation Company (UIC) Ltd
Site Address: Pavement outside 133 Clerkenwell Road, London EC1R 5DB

I write in connection with the above appeal against the refusal of planning permission and advertisement consent (Ref. 2024/3310/P & 2024/3446/A) for the **Installation of a Pulse Smart Hub with integrated digital screens and emergency functionality including provision of defibrillators and Display of illuminated content on digital screens integrated within new communication Hub.**

1.0 Summary

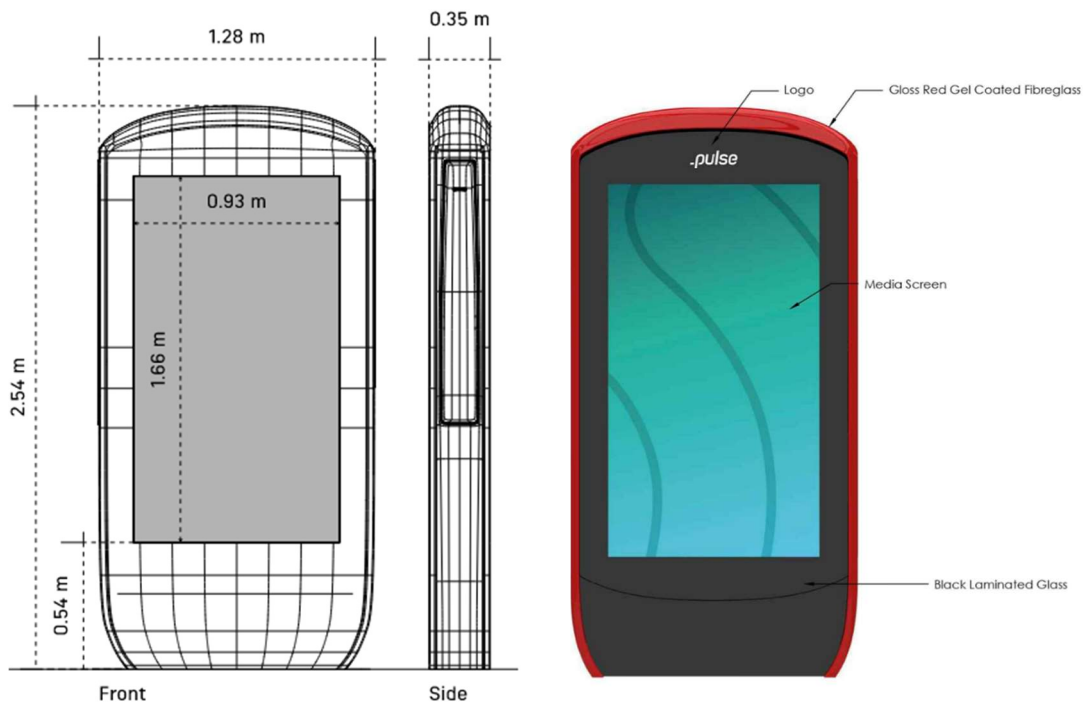
1.1 Appeal site

- 1.2 The appeal site comprises an area of public footway adjacent to no. 133 Clerkenwell Road, on the south side of the road, close to its intersection with Gray's Inn Road and Theobalds Road to the west (see Images 1 and 2 below).
- 1.3 The immediate buildings adjacent to the appeal site (including no. 133 Clerkenwell Road) have been demolished and the building site is currently surrounded by a street hoarding along this stretch of pavement.



Images 1 & 2 – appeal site and streetscene (looking east along Clerkenwell Road)

- 1.4 The site is located within the Hatton Garden Conservation Area. There are a number of buildings located directly opposite the appeal site which are identified in the Hatton Garden Conservation Area Appraisal and Management Strategy Statement (adopted September 2017) as making a positive contribution to the Conservation Area. These include, Cavendish Mansions, 170-178 (even) Clerkenwell Road; and Gray's Inn Buildings, Rosebery Avenue. The Grade II listed, (north side) Yorkshire Grey Public House, 2-6 Theobald's Road, is located diagonally opposite the appeal site to north-west.
- 1.5 Appeal proposals
- 1.6 The proposed communication hub principally comprises of double-sided display screens, made from dark grey anodised metal, black and clear laminated glass with a textured fiberglass coated finish. The structure measures 2.54m high x 1.28m wide x 0.35m deep (see Images 3 and 4 below).



Images 3 & 4 – proposed communications hub with integrated digital display screens

- 1.7 Two illuminated digital screens are integrated into the proposed structure with advertisements displayed on both sides of the hub on its larger elevations. The display areas both measure 1.66m high x 0.93m wide with the bottom of each area being elevated 0.54m above pavement level.
- 1.8 Advertising content would be displayed on both screens by means of static images in sequence changing no more frequently than every 10 seconds. The proposed advertisements would not include moving elements, require close study, resemble traffic signs or embody directional or other traffic elements.
- 1.9 Luminance levels during hours of operation are proposed to be limited to 600 cd/m² (dusk to dawn) and daytime levels adjusted automatically up to a maximum potential brightness of 2000 cd/m².
- 1.10 In addition to advertisement displays, the communication hub is capable of providing free Wi-Fi and phone calls with charging facilities, wayfinding / mapping services, local information provision, 999 emergency service and safety buttons, built-in defibrillator and nasal naloxone opioid antagonist.
- 1.11 Planning permission was refused on 03 October 2024 (a copy of the decision notice was sent with the questionnaire) for the installation of a Pulse Smart Hub with integrated digital screens and emergency functionality including provision of defibrillators. It was refused for the following reasons:
 1. *The proposed Pulse Smart Hub, by reason of its location, size and detailed design, would add harmful visual clutter and detract from the character and appearance of the street scene and the Hatton Garden Conservation Area,*

including a number of positive contributors located opposite (Cavendish Mansions, 170-178 Clerkenwell Road and Gray's Inn Buildings, Rosebery Avenue), and be harmful to the setting of a Grade II listed building (Yorkshire Grey Public House, 2-6 Theobald's Road), contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.

- 2. The proposed Pulse Smart Hub, by virtue of its location, size and detailed design, and adding unnecessary street clutter, would reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm, cause harm to highway safety and hinder pedestrian movement and have a detrimental impact on the promotion of walking as an alternative to motorised transport, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the Camden Local Plan 2017.*
- 3. The proposed Pulse Smart Hub, by virtue of its inappropriate siting, size and design, would fail to reduce opportunities for crime and antisocial behaviour to the detriment of community safety and security, and compromise the safety of those using and servicing the telephone kiosk, contrary to policy C5 (Safety and Security) of the Camden Local Plan 2017.*
- 4. In the absence of a legal agreement to secure a maintenance plan for the proposed Pulse Smart Hub, the proposal would be detrimental to the quality of the public realm, and detract from the character and appearance of the streetscene, contrary to policies D1 (Design), G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.*

1.12 Advertisement consent was refused on 03 October 2024 (a copy of the decision notice was sent with the questionnaire) for the display of illuminated content on digital screens integrated within new communication Hub. It was refused for the following reasons:

- 1. The proposed advertisement, by virtue of its location, scale, prominence, method of illumination, would add harmful visual clutter, detrimental to the amenity of the streetscene and the Hatton Garden Conservation Area, including a number of positive contributors located opposite (Cavendish Mansions, 170-178 Clerkenwell Road and Gray's Inn Buildings, Rosebery Avenue), and be harmful to the setting of a Grade II listed building (Yorkshire Grey Public House, 2-6 Theobald's Road), contrary to policies D1 (Design), D2 (Heritage) and D4 (Advertisements) of the Camden Local Plan 2017.*
- 2. The proposed advertisement, by virtue of its location, scale, prominence, and method of illumination, would introduce a distraction to traffic and pedestrians,*

causing harm to highway and public safety, contrary to Transport for London guidance, and to policies A1 (Managing the Impact of Development), D4 (Advertisements) and T1 (Prioritising walking, cycling and public transport) of the Camden Local Plan 2017.

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

2.0 Status of Policies and Guidance

- 2.1 In determining the above-mentioned application, the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The full text of the relevant policies was sent with the questionnaire documents.
- 2.2 The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on the 03 July 2017 and replaced the Local Development Framework Core Strategy and Camden Development Policies documents as the basis for planning decisions and future development in the borough. The relevant Local Plan policies as they relate to the reasons for refusal are:
- A1 Managing the impact of development
 - C5 Safety and security
 - C6 Access
 - D1 Design
 - D2 Heritage
 - D4 Advertisements
 - G1 Delivery and location of growth
 - T1 Prioritising walking, cycling and public transport
- 2.3 Additionally, the Council has published a new Draft Camden Local Plan (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be taken into account in the determination of planning applications which has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026).
- 2.4 The Council also refers to the following supporting guidance documents:

Camden Planning Guidance

- CPG Design (2021) - chapters 1 (Introduction), 2 (Design excellence), 3 (Heritage) and 7 (Designing safer environments)
- CPG Transport (2021) - chapters 7 (Vehicular access and crossovers) and 9 (Pedestrian and cycle movement)
- CPG Advertisements (2018) - paragraphs 1.1 to 1.15 (General advertising guidance); and 1.34 to 1.38 (Digital advertisements)
- CPG Amenity (2021) - chapters 1 (Introduction), 2 (Overlooking, privacy and outlook) and 4 (Artificial light)

Other guidance

- Camden Streetscape Design Manual
- Transport for London (TfL) - Streetscape Guidance (Fourth Edition, 2022 revision 2)
- The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements Including Digital Displays (published 2023)
- Hatton Garden Conservation Area Appraisal and Management Strategy statement (adopted 2017)

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

- National Planning Policy Framework (2023)*
Section 12 (Achieving well-designed and beautiful places)
Section 16 (Conserving and enhancing the historic environment)
** Since replaced by National Planning Policy Framework (2024)
- Section 12 (Achieving well-designed places)*
- London Plan (2021)
Policy D8 (Public Realm)
Policy T2 (Healthy Streets)

3.0 Comments on the Appellant's Grounds of Appeal

3.1 The Appellant's grounds of appeal are summarised as follows:

- GPDO Prior approval and precedent
- Physical environment
- Harm and impacts assessment
- Public benefit
- Maintenance plan and legal agreement

4.0 GPDO Prior Approval and precedent

4.1 The Appellant argues that the appeal proposals for both the installation of a Pulse Smart Hub and advertising elements should be allowed as prior approval was

previously granted on appeal for the installation of a public telephone kiosk at the appeal location dated 12/09/2018 (ref. APP/X5210/W/18/3195374 – Appendix A).

- 4.2 The Appellant asserts that whilst it is the case that appeal proposals introduce a digital element, the context of the principle of the appeal proposals operating as a telecommunications apparatus is consistent with the previous prior approval proposals allowed on appeal, and therefore, the current appeals should also be allowed by virtue of consistency in decision making (the Appellant also submitted a number of Appendices in support of this assertion).

5.0 Response to ground of appeal 1

- 5.1 General Permitted Development Order (GPDO) Prior Approval was refused by the Council on 07/08/2017 (ref. 2017/3550/P) for the proposed *installation of 1 x telephone kiosk on the pavement* at the appeal site and an appeal was subsequently allowed by the Planning Inspectorate (ref. APP/X5210/W/18/3195374 – see Appendix A) on 12/09/2018 (see ‘Relevant history’ section of Officer’s Delegated Report for further details). The telephone box was never installed and prior approval has since expired.
- 5.2 The Appellant argues that the current appeal proposals should be allowed in this context given that the Inspector at the time allowed an appeal in regard to the proposed installation of a telephone kiosk in the same location.
- 5.3 However, it should be noted from the outset that the proposals that were assessed in that case were for GPDO Prior Approval which does not involve the same considerations as the current appeal proposals which have been submitted as part of applications for Full Planning Permission and Advertisement Consent.
- 5.4 For instance, under a GPDO Prior Approval application, the principle of development is already 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. As such, in the previous appeal for prior approval, the provisions of the GPDO required the local planning authority to assess the proposed development solely upon the basis of its siting and appearance (taking into account any representations received).
- 5.5 In contrast, the current appeal proposals have been made under applications for both Full Planning Permission and Advertisement Consent, and as such, the Council is now able to take into account all relevant policies of the development plan, including any related guidance and policies in emerging plans, as well as, any other planning considerations material to the application (again, taking into account any representations received).

- 5.6 Equally important, the Council respectfully requests that the Inspector notes at the outset that the previous proposals in 2017 (allowed under appeal in 2018) were for a kiosk structure which did not include any form of advertising as part of the proposal. As such, the Inspector was not able to and did not give any consideration at that time to the likely impact of any form of signage, illuminated or otherwise, within the setting of the appeal site.
- 5.7 In contrast, the current appeal proposals include the introduction of two large illuminated digital screens within the setting of the appeal site and the associated submission of an application for Advertisement Consent in order that the impact of the advertisements can be fully considered. Again, this is an important and distinct difference between the previous and current appeals which the Appellant appears to have overlooked.
- 5.8 As such, it is emphasised that while the Council has given due consideration to the previous appeal decision in 2018, an assessment has also been based on the information and drawings provided by the Appellant as part of the current appeal proposals, taking into account the individual merits of the appeal proposals within the particular site context and surroundings as they exist currently. Due attention has also been made to all relevant planning applications and appeals history, policies and guidance, as well as, any consultation responses received.
- 5.9 Following a careful assessment as referred to above (and specified in detail in the Officer's Delegated Report), it is the Council's view that the appeal proposals are unacceptable for the reasons stated in the relevant decision notices (and as set out in Paragraphs 1.11 and 1.12 above), and the Inspector is respectfully requested to dismiss the current appeal on that basis.

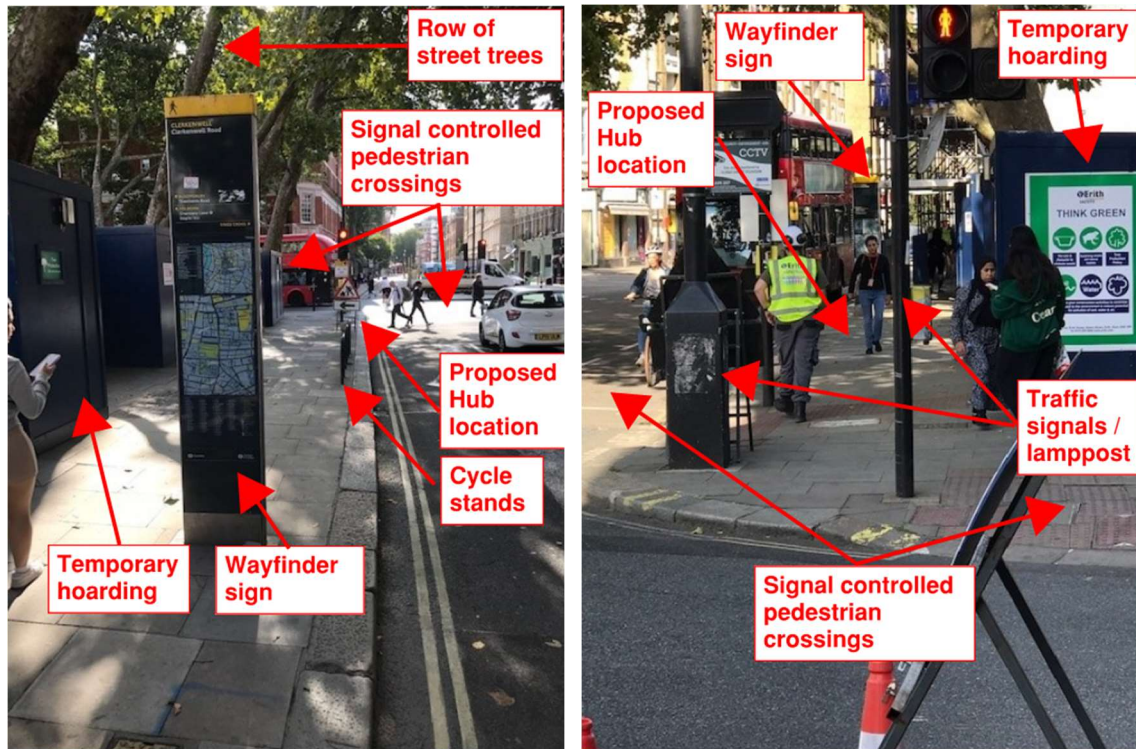
6.0 Physical environment

- 6.1 The Appellant asserts that the physical environment at the appeal site has not materially changed since the 2018 decision for prior approval and the appeals should therefore be allowed on that basis.

7.0 Response to ground of appeal 2

- 7.1 Notwithstanding that the current appeal proposals require careful consideration relevant to both Full Planning Permission and Advertisement Consent applications as stated above (unlike in 2018 when an application for GPDO Prior Approval was determined), it is the Council's view that not only has the physical environment altered since 2018, contrary to the Appellant's assertion, but more importantly that the Appellant has failed to take into account or demonstrate any consideration for the site context and surroundings as they exist at present.

- 7.2 This is firstly evidenced in the Appellant's application submission where it is noted that the submitted plans fail to take into account that the immediate buildings adjacent to the appeal site (including no. 133 Clerkenwell Road itself) have been demolished and the building site is currently surrounded by a street hoarding along this stretch of pavement. The building site has approval (ref. 2022/4259/P) to erect a mixed-use office led (Class E) development comprising a basement, ground plus 8-storey building for flexible retail / restaurant / office uses at ground floor and basement (Class E).
- 7.3 These construction works and associated hoarding have temporarily narrowed the width of the pavement from the previous footway width of approximately 6.36m wide when measured from the kerb to the former adjacent building (no. 133 Clerkenwell Road).
- 7.4 The Appellant's submitted plans also fail to show any street items or furniture at all, when in fact some items form a narrow street furniture zone adjacent to the kerb edge which is offset from the kerb by approximately 0.5m. The existing street furniture is primarily made up of a row of mature street trees (currently located inside the adjacent building site and surrounding by a hoarding), a signpost, 6 parallel cycle parking stands, a lamppost, 2 utilities cabinets, a Legible London wayfinding sign and a set of traffic lights associated with a signal-controlled pedestrian crossing.
- 7.5 These current contextual characteristics of the appeal site are considered by the Council to be important to the consideration of the proposals. In particular, they confirm the position of a row of existing street trees along the middle of the previous footway (currently screened by the construction hoarding) which result in two pedestrian desire lines in this location. The primary pedestrian desire line is located near the kerbside between the street furniture zone and the row of street trees. This has been measured as 2.4m wide, with the street furniture zone taking up approximately 0.7m of footway space. The secondary pedestrian desire line is located at the rear of the footway between the row of street trees and the former building (no. 133 Clerkenwell Road) – see Images 5 and 6 below.



Images 5 & 6 – showing existing street furniture and features at the appeal site

- 7.6 The Pulse Smart Hub would be 1.28m wide and offset from the kerb by 0.6m. This means that it would result in the primary pedestrian desire line being narrowed in width from 2.4m to 1.4m with the Pulse Smart Hub encroaching onto the primary pedestrian desire line by approximately 1m. This would be significantly less than the minimum effective footway width of 3.3m as recommended by the Transport for London guidance referred to above and is unacceptable for a number of reasons.
- 7.7 Firstly, the proposal would introduce a physical and visual obstruction within the primary pedestrian desire line and a narrowing of the footway which could lead to dangerous situations involving pedestrians coming into conflict with other pedestrians or items of street furniture, this being of particular concern for blind and partially sighted pedestrians, as well as, persons with mobility issues or with prams/push-chairs.
- 7.8 Secondly, given that the proposed hub structure would be significantly wider than any of the existing street furniture or features identified by the Council as being in situ, it is considered reasonable to assume that the proposed structure would extend beyond any existing furniture zone in this case and encroach further onto the public highway than any of the existing features, thereby extending further into the primary pedestrian desire line towards the rear of the footway. This is a significant physical difference to the proposals approved on appeal for the GPDO Prior Approval application in 2018. This loss of available footway space as a result of the appeal proposal would adversely impact on pedestrian movement in an area where pedestrian footfall is exceptionally high within this busy Central London location.

- 7.9 As such, noting that the Appellant's submitted plans have little contextual relevance and fail to reflect the physical environment or site context as it stands at present, this also brings into question what degree of consideration (if any) has been given by the Appellant to the proposed siting of the hub structure itself within the existing site context, particularly as the Appellant appears to rely heavily on the physical environment as it was in 2018 as a key factor in the hub's siting and to the acceptability of the appeal proposals.
- 7.10 It is re-emphasised again at this point that the Council has taking into account the individual merits of the appeal proposals within the site context and surroundings as they exist currently. The Council has therefore been able to consider the impact of the appeal proposals within the context of both the ongoing construction works taking place immediately adjacent to the appeal site and street furniture zone referred to above (and absent from the Appellant's drawings). This is particularly important as not only does the size of the proposed hub structure mean that it would extend beyond the existing furniture zone into the primary pedestrian desire line, but also that the situation would be worsened by virtue of the hub's design which has public facilities located at the side of the structure.
- 7.11 As such, any members of public using the facilities provided (such as, free Wi-Fi and phone, wayfinding, etc.) will necessarily have to stand in an area at the side of the hub on the public highway, beyond the footprint of the hub structure and the existing furniture zone, so further reducing the amount of pavement space available for pedestrians to comfortably move along the public highway and pass by. This would create an unacceptable additional obstruction to pedestrian movement as a result of the current appeal proposals.
- 7.12 The fact that users of the facilities provided by the proposed hub structure have to stand at the side of the unit is an important and notable difference between the previous application for a telephone kiosk in 2017 and allowed on appeal in 2018 (Ref. APP/X5210/W/17/3195374 – see Appendix A) and the current proposals as the users in that previous case would be able to stand inside the kiosk when accessing the facilities without creating any additional restrictions on footway or highway space.
- 7.13 Moreover, the exact position of the proposed hub cannot be guaranteed due to the presence of sub-surface utilities, such as, Thames Water and Virgin Media, etc. which might require a relocation which could further reduce available effective footway space through any required repositioning of the proposed hub structure.
- 7.14 Overall, therefore, taking into account the physical environment at the appeal site as it exists at present, including the width and orientation of the proposed hub structure, the presence of existing street items, the ongoing construction works taking place immediately adjacent to the appeal site and the anticipated additional space necessary for individuals or groups to stand on the public highway beyond the footprint of the hub structure to use the facilities, it is considered that the loss of available footway space as a result of the appeal proposal would have an

unacceptable impact on pedestrian movement at the appeal site in an area where pedestrian footfall is exceptionally high within this busy Central London location.

- 7.15 Additionally, there is no evidence in the appeal submission that any consideration has been given to the existing site context, nor any indication that any attempt has been made to integrate the Council's local highway, urban realm and landscape objectives into the appeal proposals.
- 7.16 One of the Council's aims throughout the Borough in relation to street furniture and the public realm is to promote high quality physical environments through de-cluttering existing footways in order to enhance pedestrian movement and public realm. In this regard, Camden Local Plan Policy D4 (Advertisements) in Paragraph 7.84 states that, *'The Council aims to reduce visual street clutter, reducing the number of objects on the street, rationalising their location and limiting the palette of materials. Free standing signs and signs on street furniture will not normally be accepted where they contribute to visual and physical clutter and create a hindrance to movement along the pavement or pedestrian footway'*.
- 7.17 To the contrary, at a time of re-invention of the street, with widening of pavements and appreciation of generous public realm, the appeal proposals are a disappointing reinstatement of pavement clutter. The appeal proposals lack the initiative that has been shown elsewhere in the Borough for creativity and reappraisal of streets and public spaces, and fail to create something that might otherwise be considered a genuine improvement and positive addition to the streetscene.
- 7.18 An example of this approach by the Council is evidenced in the central London area around Tottenham Court Road which has been the subject of a major public realm renewal programme as part of the Council's 'West End Project' involving an investment of £35m intended to transform this part of the Borough. One of the objectives of the Project is to declutter the public highway and streets, and as such, significant works have already taken place over the last few years to realise these improvements in this location, including successfully securing the removal of 19 phone kiosks on Tottenham Court Road as part of a separate enforcement investigation.
- 7.19 This approach by the Council is noted as being in accordance with Policy D8 (Public Realm) of the London Plan which states in regard to the kind of development proposed that, *'Applications which seek to introduce unnecessary street furniture should normally be refused'*.
- 7.20 As such, the current appeal proposals are at odds with the broader, integrated approach of the Council to improve and rationalise the public realm throughout the Borough, and are contrary to its objectives which, amongst other aims, seeks to enhance the visual appearance of the streetscene and declutter pedestrian footways, rather than add additional street clutter.

8.0 Harm and impacts assessment

- 8.1 The Appellant argues that it has been demonstrated that the appeal proposals will not cause harm to the character of the area, including to any designated heritage assets, to highway / public safety or any other harm, and that the appeal proposals are acceptable in principle with regard to national and local planning policy.

9.0 Response to ground of appeal 3

- 9.1 The Council strongly disagrees with the Appellant's assertion in regard to the degree of impact and harm resulting from the appeal proposals. As set out in the Officer's Delegated report, it is the Council's view that the proposed hub, by reason of its location, size, detailed design, prominence and method of illumination, would add harmful visual clutter and detract from the character, appearance and amenity of the street scene and the Hatton Garden Conservation Area, including a number of positive contributors located opposite (Cavendish Mansions, 170-178 Clerkenwell Road and Gray's Inn Buildings, Rosebery Avenue), and be harmful within the setting of a Grade II listed building (Yorkshire Grey Public House, 2-6 Theobald's Road).
- 9.2 Additionally, the proposed hub would add unnecessary street clutter, reduce the amount of useable, unobstructed footway, and cause harm to highway safety and hinder pedestrian movement, which would be detrimental to the quality of the public realm and on the promotion of walking as an alternative to motorised transport.
- 9.3 Finally, the proposed hub would also fail to reduce opportunities for crime and antisocial behaviour to the detriment of community safety and security, as well as, compromise the safety of those using and servicing the hub.
- 9.4 The Council's position in regard to the harmful impacts of the appeal proposals as stated above is set out in detail in the Officer's Delegated Report and is relied on as the principal Statement of Case. However, the Inspector is respectfully requested to note the following in relation to both Full Planning and Advertisement Consent appeal proposals:

Design, appearance and amenity

- 9.5 In terms of the design and impact of the proposals on the character and appearance of appeal site and surrounding area, it is firstly important to note that the site is located within the Hatton Garden Conservation Area. There are a number of buildings located directly opposite the appeal site which are identified in the Hatton Garden Conservation Area Appraisal and Management Strategy Statement (adopted September 2017) as making a positive contribution to the Conservation Area. These include, Cavendish Mansions, 170-178 (even) Clerkenwell Road; and Gray's Inn Buildings, Rosebery Avenue. The Grade II listed, (north side) Yorkshire Grey Public

House, 2-6 Theobald's Road, is also located diagonally opposite the appeal site to north-west.

- 9.6 The proposed hub structure is considered to be poor in design terms and appears to have been primarily designed around the inclusion of two large digital screens on each of the main elevations. The size of the hub unit itself appears, therefore, to have been determined by the dimensions of the advertising panels. As such, the two illuminated digital advertising display screens occupy the majority of area available on each elevation of the structure (facing south-west and north-east respectively).
- 9.7 This is an unfortunate ordering of the characteristics and design approach, strongly indicating the primary importance of the digital screens in the design process and the more incidental nature of other elements (such as, wayfinding screen, charging points, defibrillator, etc.). As a consequence, these other facilities are restricted to the narrower side of the hub's structure in the design process with a significantly more limited surface area, when the unit might otherwise have been designed around these items in order to provide better access and greater public benefit, with the overall unit (and therefore any advertising screens) being as small as an alternative design might allow, so helping to minimise any adverse visual impacts at the appeal site.
- 9.8 However, this has not been the case and the design approach has resulted in the creation of a large monolithic structure which gives the overall appearance as a large free-standing, advertisement panel rather than a structure for any other purpose.
- 9.9 The dark grey anodised metal, black and clear laminated glass with textured fiberglass would have a shiny finish and incongruous contemporary appearance within the streetscene. While the Appellant's planning statement describes the design of the proposed hub as referencing a traditional red phone box, it is the Council's view that the proposed structure bears little relation. Indeed, a comparison of both a traditional red phone box and the current appeal proposals as shown in the Appellant's submission not only shows a lack of similarity in design of them both, but also a substantially larger profile (see Image 7 below).

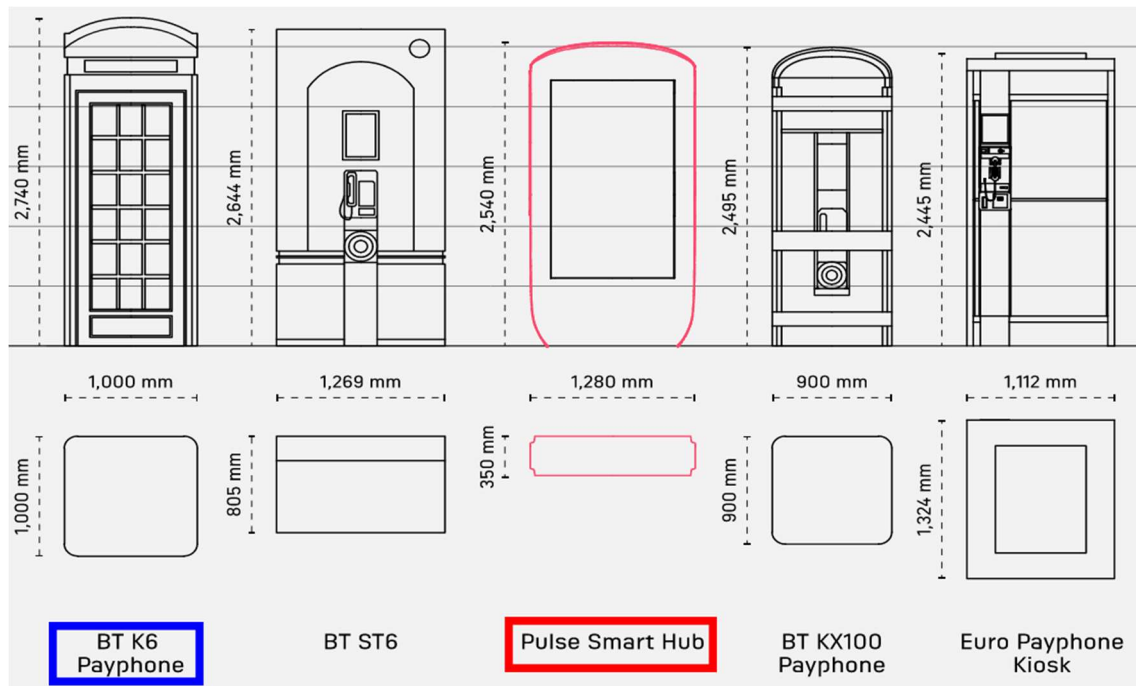


Image 7 – comparison of different communication kiosks/hubs (proposed hub structure in red)

- 9.10 Whilst the proposed hub structure is shown in Image 7 above as having a smaller footprint than, say, a traditional red telephone box, this is primarily through a difference in depth rather than in width. Any difference therefore is not something that would be experienced by a pedestrian as the large width and profile of the proposed structure would be most noticeable and prominent to the pedestrian on approach, restricting their views and visual amenity in this context.
- 9.11 Furthermore, it is emphasised that there is no kiosk or hub of any kind in situ at the appeal site, and therefore, the Appellant’s comparison of footprint dimensions with a traditional telephone box (or indeed any other communications kiosk/hub) is considered to be mainly irrelevant as the appeal proposals are not for a replacement structure, but rather would introduce a new item of street furniture to an area of public highway that is presently open and uncluttered by large or bulky items.
- 9.12 Moreover, there is nothing distinctive or responsive to context within the appeal proposals, particularly when combined with its uncompromising bulk, and as such, it would appear as a prominent and discordant feature in the streetscene. In this regard, the unit is not considered to be the high-quality design that Camden expects across the borough’s buildings, streets and open spaces, but rather, would add a visually obtrusive and dominant piece of poorly designed, street furniture that is out-of-keeping with the existing uncluttered streetscene,
- 9.13 In a previous appeal decision at the site in 2018 (Ref: APP/X5210/W/17/3195374 – Appendix A) in relation to a proposed phone kiosk, the Planning Inspector considered that the slim frame and laminated glass panels would mean that it would not be bulky

or be an obtrusive visual addition in the location. However, in contrast, the current proposed hub structure would necessarily have a solid appearance by virtue of the two large digital display screens integrated within the structure on either side.

- 9.14 Taking into account its bulky scale and incongruous design, along with the current absence of any other large items of street furniture in this part of the pedestrian highway, the proposed introduction of the hub structure into this location, would detract from the existing character and appearance of the immediate streetscene and Hatton Garden Conservation Area, which includes a number of positive contributors located opposite (Cavendish Mansions, 170-178 Clerkenwell Road and Gray's Inn Buildings, Rosebery Avenue), and would be harmful within the setting of a Grade II listed building (Yorkshire Grey Public House, 2-6 Theobald's Road), located diagonally opposite to the north-west.
- 9.15 This adverse impact would be further exacerbated by virtue of the fact that integrated digital screens would display illuminated advertising on both sides of the proposed hub structure. By design, this would appear as visually prominent and attention-grabbing forms of display, particularly given the digital method of illumination, image transition and ability to display simultaneously in two directions. Both integrated digital screens would therefore serve to adversely heighten the presence of the proposed hub structure, adding noticeable visual clutter and making it even more conspicuous, not least due to the large size of both of the display areas and the hub structure itself, but also by virtue of its prominent location on Clerkenwell Road that is otherwise absent of any form of illuminated signage.
- 9.16 As a consequence, the appeal proposals would appear as an incongruous addition which would be harmful to the character and appearance of the area and contribute to the degradation of visual amenity within the streetscene and the conservation area, including a number of positive contributors located opposite and the setting of the Grade II listed building in which the proposed hub structure is visible to the north-west.
- 9.17 In a recent appeal decision (Ref: APP/X5210/W/20/3254037 and 3252962 – Appendix B) on 16/11/2020 in relation to a proposed phone kiosk and digital advertising display within the Borough, the Planning Inspector noted when dismissing the appeal that, *'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'*.
- 9.18 It is noted in the above appeal case which was dismissed that only one panel was proposed, whereas the current appeal proposals would involve the introduction of two illuminated screens which would be displayed in two directions, and as such, the adverse impact in the streetscene is considered likely to be greater.

- 9.19 In terms of the proposed screen's luminance levels, the supporting information confirms that this would not exceed 600 cd/m² (dusk to dawn) during hours of operation and daytime levels would adjust automatically up to a maximum potential brightness of 2000 cd/m². While it is accepted that all advertisements are intended to attract attention and that certain aspects of the display can be controlled by condition should consent be granted (such as, luminance levels, transition, sequencing, etc.), the addition of two illuminated digital advertisement screens in this location would significantly raise the prominence of the proposed piece of street furniture. Moreover, notwithstanding that the Appellant would consider powering off the screens between midnight and dawn, the screens would nevertheless be active throughout the majority of any 24-hour period, 7 days a week.
- 9.20 It is also considered relevant to note 4 appeals for comparable illuminated digital advertisement displays on telephone kiosks dated 22/05/2018 (Appendix F - Ref: APP/H5390/Z/17/3192478 (Appeal B); APP/H5390/Z/17/3192472 (Appeal B); APP/H5390/Z/17/3192470 (Appeal B); APP/H5390/Z/17/3188471 (Appeal B). In those cases, the Planning Inspector in dismissing the appeals commented that 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. In each case, the display of a sequential series of static digital images was considered to be conspicuous and eye-catching, and as such, would have a harmful effect upon visual amenity.
- 9.21 Additionally, in a more recent appeal decision on 21/08/2024 for a proposed telephone kiosk with a digital advertisement screen within the Borough (Ref: APP/X5210/W/24/3341451 and APP/X5210/Z/24/3341453 – Appendix C), the Planning Inspector noted when dismissing the appeal that, *'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'*.
- 9.22 The current appeal proposals would similarly be sited in a position affording open views along Clerkenwell Road and on a major road junction with Gray's inn Road and Theobalds Road, and as such, would be prominent in both directions, particularly by virtue of the illumination on both sides of the hub structure, resulting in a dominant feature within the streetscene.
- 9.23 Paying particular regard to the impact of the appeal proposals on Hatton Garden Conservation Area, the Planning Inspector in the 2018 appeal at the site (Ref. APP/X5210/W/18/3195374 – see Appendix A) considered when allowing the appeal that the telephone kiosk would not be an obtrusive visual addition. However, it is emphasised again that in that particular case the proposals did not involve any form of illuminated advertisement screens or panels. In contrast, the current appeal proposals being considered here involve the introduction of two large illuminated digital screens integrated within a wider hub structure to the streetscene.

- 9.24 As such, the inclusion of two illuminated integrated digital screens as part of the current appeal proposals would have a greater impact in the locality than the previous appeal scheme. The illuminated screens would serve to adversely heighten the presence of the proposed structure within the appeal setting, adding noticeable visual clutter and making the hub structure even more conspicuous, not least as a consequence of the large size of both of the display areas and the structure itself, but also by virtue of the prominent location on Clerkenwell Road that is otherwise absent of any similar form of illuminated signage.
- 9.25 Therefore, while it is accepted that all advertisements are intended to attract attention, the introduction of the proposed hub structure with two integrated digital advertisement screens would add harmful visual clutter that would detract from the character and appearance of the streetscene and Hatton Garden Conservation Area which includes a number of positive contributors located opposite as referred to above and the setting of a Grade II listed building located diagonally opposite to the north-west.
- 9.26 Overall, therefore, for the reasons set out above, the appeal proposals would fail to adhere to Local Plan Policies D1 (Design), D2 (Heritage) and D4 (Advertisements), Camden Planning Guidance (CPG Design), as well as, the core design principles as set out in Section 12 of the NPPF and Policy D8 (Public Realm) of the London Plan. The Inspector is therefore respectfully requested to dismiss the current appeal on these grounds.

Transport and public highway

- 9.27 In regard to pedestrian movement and the public highway, as noted above (see Paragraphs 7.1 to 7.14), the Appellant's submitted plans fail to show any consideration for the possible impact of construction works immediately adjacent to the appeal site, nor show any street items or furniture at all, when in fact some items form a narrow street furniture zone adjacent to the kerb edge. The existing street furniture is primarily made up of a row of mature street trees (currently located inside the adjacent building site and surrounding by a hoarding), a signpost, 6 parallel cycle parking stands, a lamppost, 2 utilities cabinets, a Legible London wayfinding sign and a set of traffic lights associated with a signal-controlled pedestrian crossing. As such, the Appellant's submitted plans have little contextual relevance.
- 9.28 This situation would be worsened by virtue of the hub's design, given that all user facilities associated with the proposed hub (such as, free Wi-Fi and phone, wayfinding / mapping services, local information provision, 999 emergency service and safety buttons, etc.) are provided at the side of the structure which faces onto the public highway. Therefore, any members of public using the facilities will necessarily have to stand in an area on the public highway, beyond the footprint of the hub structure and the existing furniture zone, so further reducing the amount of pavement space available for pedestrians to comfortably move along the public

highway and pass by. This would create an unacceptable additional obstruction to pedestrian movement as a result of the proposals.

- 9.29 Therefore, taking into account the physical environment at the appeal site as it exists at present, including the width and orientation of the proposed hub structure, the presence of existing street items and the anticipated additional space required on the public highway for individuals or groups to stand on the public highway beyond the footprint of the hub structure to use the facilities, it is considered that the loss of available footway space as a result of the appeal proposals would have an unacceptable impact on pedestrian movement at the appeal site in an area where pedestrian footfall is exceptionally high within this busy Central London location.
- 9.30 Moving on to consideration of the impact of the proposals on road safety, guidance set out in the Camden's Streetscape Design Manual confirms that visibility splays or views at junctions must not be obstructed by street furniture.
- 9.31 The Planning Inspector when considering a previous appeal (ref. APP/X5210/W/18/3195374 – Appendix A) dated 12/09/2018 (see 'Relevant history' section of Officer's Delegated Report for further details) concluded that the proposals would not have an unacceptably harmful effect on highway and pedestrian safety. However, the current appeal proposals are for a hub structure which has a different design and characteristics to the previous appeal proposals.
- 9.32 As referred to above, a notable difference between the previous appeal for a telephone kiosk allowed on appeal in 2018 (Ref. APP/X5210/W/17/3195374 – see Appendix A) and the current appeal proposals is both the larger size (width) of the proposed hub structure and the introduction of two large illuminated digital panels within the setting of the appeal site. The previous proposals in 2018 were for a structure which was not as wide and did not include any illuminated advertising as part of the proposals, and as such, the Inspector was not able to and did not give any consideration at that time to the likely impact of illuminated signage within the setting of the appeal site. As such, the potential to provide distraction to pedestrians and road users from illuminated signage was not considered and should now be taken into account as a material consideration in the assessment of the current appeal proposals, along with the larger size (width) of the current proposed hub structure.
- 9.33 Appendix A of the 'Guidance for Digital Roadside Advertising and Proposed Best Practice' (commissioned by Transport for London in March 2013) advises that digital advertisement panels will not normally be permitted if proposed to be installed within 20m of a pedestrian crossing, either on the approach or the exit. Images 8 and 9 below show the approximate position of the proposed hub location in context with the surrounding streetscene.

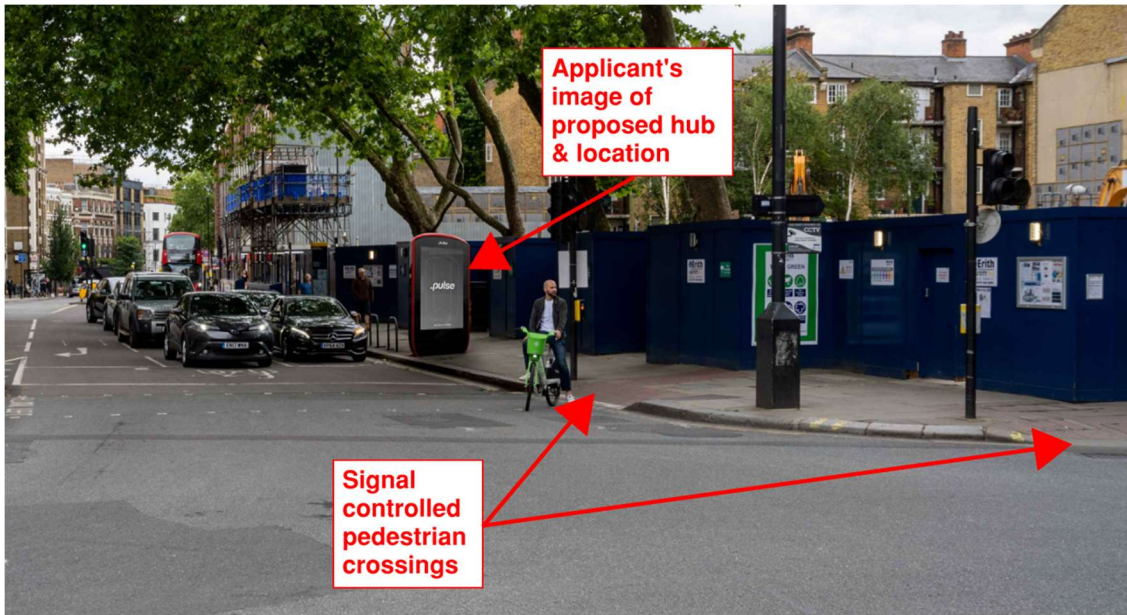


Image 8 – showing proximity of appeal site to 2 x signal-controlled pedestrian crossings on Clerkenwell Road and Gray's Inn Road (looking south-east)

9.34 Image 8 above indicates that the proposed hub structure (with integrated digital advertising screens on both sides) would be installed within approximately 5m and 13m of two busy signal-controlled pedestrian crossings located to the west of the hub's proposed position in Clerkenwell Road and Gray's Inn Road respectively, contrary to the above Transport for London guidance. This degree of proximity is also shown in Image 9 below which has been scaled and measured from the Appellant's submitted drawings pack.

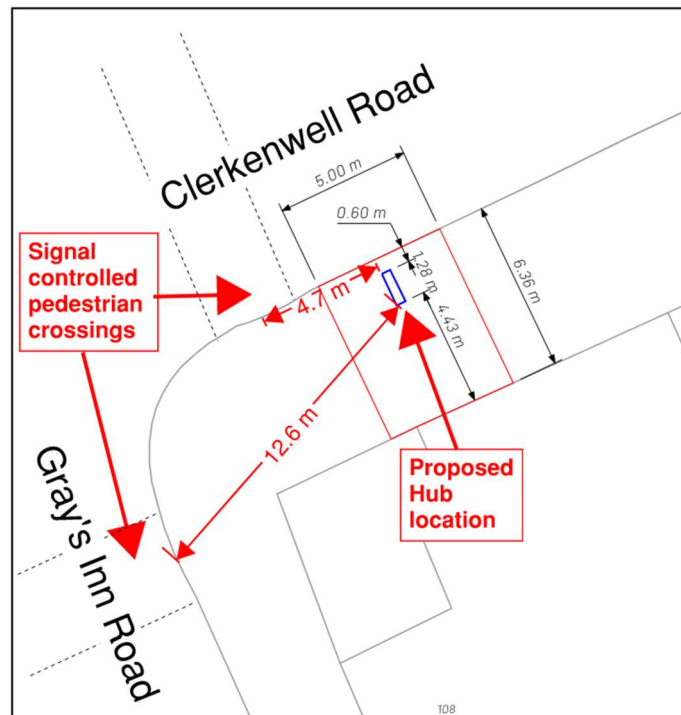


Image 9 – showing proximity of proposed hub structure (blue) to 2 x signal-controlled pedestrian crossings in Clerkenwell Road and Gray's Inn Road

- 9.35 The proposals would therefore introduce a significant distraction to pedestrians attempting to use the crossings, particularly when looking in a north-easterly direction towards the proposed hub structure, given the close proximity of both in relation to the proposed position of the hub structure, as a result of the structure's size, location, illuminated displays and orientation. Given that this is also a very busy junction for pedestrian traffic attempting to cross the road at this point and the convergence of bus and cycle lanes at these points, the likely distraction resulting from the proposed siting of the two illuminated advertising screens integrated within the proposed appeal structure in this location would adversely impact on public safety. The appeal proposals could also lead to a distraction for road users for the same reasons, particularly motor vehicles or cyclists approaching the crossing in a westbound direction along Clerkenwell Road.
- 9.36 Additionally, it is recognised that while both crossings identified above are signalised, it is common practice generally for some pedestrians to 'anticipate' a green light or cross on a 'red man' signal at junctions. The proposed illuminated advertising screens would only exacerbate any current risks on these busy road junctions located in close proximity to the appeal site.
- 9.37 Finally, it should be noted that the hoardings currently located along the stretch of pavement adjacent to the appeal site surround ongoing demolition and construction works following planning permission (ref. 2022/4259/P) being granted subject to conditions and a Section 106 Legal Agreement (Appendix I) on 20/12/2023. The legal agreement includes a Highway Contribution (Clause 2.43 – pages 26-27) which places an obligation on the developer to fund the provision of 34 cycle parking stands on the public highway in the vicinity of the appeal site. As referred to above, the existing street furniture zone at the site includes a number of existing cycle parking stands. The Council intends to provide some of the required cycle parking stands where the proposed Pulse Smart Hub would be located (i.e. between the existing cycle parking stands outside no. 129 Clerkenwell Road and the traffic signals at the junction with Gray's Inn Road). This will leave no room for the proposed Pulse Smart Hub.
- 9.38 As mentioned above, the secondary pedestrian desire line is located at the rear of the footway between the row of street trees and the former building (no. 133 Clerkenwell Road). The approved ground floor plan for the above development indicates various retail units will be provided which are likely to be restaurants and/or cafes who would aspire to obtain licences from the Council to place tables and chairs on the adjacent footway during opening hours. Any subsequent tables and chairs licence applications would normally be acceptable as long as an effective footway width of at least 1.8m can be maintained on the secondary pedestrian desire line. This would place even more importance on keeping the primary pedestrian desire line free of obstructions, such as, the area where the proposed Pulse Smart Hub

would be located. As a consequence, the appeal proposals are directly at odds with future proposed works in this location.

- 9.39 Overall, therefore, the appeal proposals raise public safety concerns for road users and pedestrians as outlined above, and would have a significantly harmful impact on highway safety, pedestrian movement and the promotion of walking as an alternative to motorised transport, in accordance with Local Plan Policies A1 (Managing the impact of development) and T1 (Prioritising walking, cycling and public transport), and the related guidance. The Inspector is therefore respectfully requested to dismiss the current appeal on these grounds.

Security, crime and anti-social behaviour

- 9.40 In regard to community safety matters, it is noted generally that street furniture within the London Borough of Camden (including existing telephone kiosks and communication hubs) have in many cases become 'crime generators' and a focal point for anti-social behaviour (ASB). Specifically, in relation to the locations of the kiosks or hubs around Camden, there is a common theme among the crime statistics as confirmed by the Metropolitan Police; namely, major issues with street crime, and in particular ASB, pickpocketing and theft.

- 9.41 Many such areas fall within the central parts of the Borough similar to the appeal site, characterised by a significant footfall, typically made up of commuters, local residents and numerous tourists.

- 9.42 Having reviewed the current appeal proposals and supporting information, the Metropolitan Police Crime Prevention Design Advisor objects to the appeal proposals due to concerns regarding public and community safety at the appeal site. These concerns are primarily in regard to:

1. High Crime Location:

- 9.43 The appeal site is located within the policing ward of Holborn and Covent Garden within which the Metropolitan Police have confirmed experiences a high crime rate in comparison to other areas of the capital. This is particularly due in part to the large number of tourists and students within the locality. Opportunistic thieves operate in the area look to commit theft of mobile phones, purses, wallets, etc. in particular. As such, the appeal proposals would involve the siting of the hub structure in a high-risk crime location.

- 9.44 Metropolitan Police crime figures for the last 12 months for this particular policing ward (Holborn and Covent Garden) indicate that theft (from person or otherwise) accounts for over 52% of recorded crime, while ASB and drug related reports of crime account for a further 16%.

- 9.45 While the future commercial and business units at ground floor are considered to provide good natural surveillance during opening hours once construction has been completed at the adjacent building site, this will diminish overnight and during the hours of darkness when the potential to attract a more anti-social element within the later hours of the day and into the night increases. Metropolitan Police intelligence reports in the area confirm drug dealing activity and it is considered that the provision of free calls, Wi-Fi and charging facilities provided by the proposed hub unit would benefit the local drug trade, so increasing opportunities for criminal activity.
- 9.46 There is concern that the design of the proposed structure would not sufficiently reduce the risk of the types of crime listed above from occurring. Due to the openness of the hub unit, any mobile phones on display at this location (either in hand or on charge) would be vulnerable to the opportunist phone snatch. Bicycle and moped enabled theft are confirmed as being high in the area and the position of the proposed unit close to the road could make user's mobile phones vulnerable to theft.
- 9.47 Furthermore, the two large façades created to accommodate illuminated digital advertising screens would provide increased opportunities for concealment through their proposed orientation and size, as well as, providing a distraction to users, so increasing the potential risk of theft and assault. Incidents of theft are known by the Metropolitan Police to already be a frequent problem for this area and the proposed hub unit has the potential to exacerbate this issue.
- 9.48 CCTV provided by the proposed hub unit would not assist with recording possible theft, snatches or robberies of mobile phones or purse/wallets, etc. which might take place while using the unit as the appeal submission appears to indicate that CCTV is only triggered if emergency services are called.

2. Lack of management practice information:

- 9.49 The Metropolitan Police Crime Prevention Design Advisor has raised concern in regard to the absence of a suitable ASB management plan and general absence of details in regard to any information sharing agreement and safety protocols with the Metropolitan Police, London Ambulance Service and London Fire Brigade (see also Sections 12 and 13 - 'Maintenance plan and legal agreement').
- 9.50 There is also a lack of clarity on how the 999 Emergency button would operate and details in regard to the 'automatic triggers' referred to in the appeal submission (such as, restriction of Wi-Fi if misused, restriction on calls to 'over-used' phone numbers, etc.).
- 9.51 Whilst a maintenance strategy is proposed, it is not considered sufficient to address the fact that ASB would be encouraged by the design of the appeal kiosk itself. In a separate Appeal decision (ref: APP/X5210/W/20/3253878 and 3253540 – Appendix D), the Inspector noted '*the appellants' proposed maintenance regime would be likely*

to reduce the effects of such ASB. However, the form of the structure provides a degree of screening for such behaviour and would be likely to encourage it'.

9.52 This is also supported by the Planning Inspector when dismissing an appeal against the Council's refusal for a proposed installation of new BT Street Hub incorporating an LCD advert screens (Ref: APP/X5210/W/22/329723 & 3297276 – Appendix E) on 02/11/2022. In considering the appellant's intentions to maintain the new BT Street Hub, the Inspector concluded, *'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'.*

9.53 It is similarly considered in the case of the current appeal that in the event of vandalism or disrepair of the proposed hub structure, it would become an eyesore within the streetscene, by virtue of its size, bulk, illumination and general prominence.

3. Supply of a (usually by prescription) drug:

9.54 The Metropolitan Police Crime Prevention Design Advisor objects to the proposition to supply a controlled medicine to the public as provided by proposed hub unit. 'Nasal Naloxone' is currently a Prescription Only Medicine (POM) as defined by the 'Medicines and Healthcare products Regulatory Agency' (MHRA). It can only be prescribed or supplied by specific government bodies or drugs services. Although the regulations state the exceptions for use in an emergency, they are also very clear on who can supply/prescribe Naloxone.

9.55 In the absence of details clearly demonstrating that the Appellant for the proposed hub unit is an approved supplier of 'Nasal Naloxone' and is legally permitted to supply this drug in this way, then strong concerns remain in regard to the potential supply, secure storage and clear methodology for the safe access and use of the drug associated with the appeal proposals.

9.56 Overall, therefore, the design and siting of the proposed illuminated structure, which is considered unnecessary and effectively creates a solid barrier to hide behind on a busy footway, would add to street clutter and introduce safety issues in terms of crime and ASB, through reducing sight lines and natural surveillance in the area, as well as, providing a distraction and potential opportunities for an offender to loiter. This would increase opportunities for crime and the fear of crime taking place in an area which already experiences issues with crime.

9.57 As such, for the reasons set out above, the appeal proposals are considered to be contrary to policies D1 (Design) and C5 (Safety and security) of the Camden Local Plan, and associated guidance.

9.58 In summary, therefore, the Council considers that several harmful impacts as identified above and as stated in the Officer's Delegated Report (in terms of design and appearance / transport and public highway / and security, crime and anti-social behaviour) would result as a consequence of the appeal proposals. The Inspector is therefore respectfully requested to dismiss the current appeal on these grounds.

10.0 Public benefit

10.1 The Appellant asserts that there is no requirement to assess the public benefits of the appeal proposals as there would be no harmful impacts to the character of the respective areas, including to the relevant conservation areas, highway safety / public safety, or any other harm.

10.2 The Appellant argues that there are very significant public benefits of the appeal proposals and that these should be afforded very substantial weight.

11.0 Response to ground of appeal 4

11.1 Local Plan Policies D1 and D2, consistent with Chapter 16 (Conserving and enhancing the historic environment) of the NPPF which seeks to preserve and enhance heritage assets, state that the Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.

11.2 Given the assessment as outlined in Paragraphs 9.5 to 9.26 above (and Paragraphs 3.1 to 3.32 of the Officer's Delegated Report - 'Design and appearance'), it is considered by the Council that the appeal proposals would result in less than substantial harm to the significance of designated heritage assets within the settings of the Grade II listed building (Yorkshire Grey Public House, 2-6 Theobald's Road), located diagonally opposite to the north-west, and the Hatton Garden Conservation Area, which includes a number of positive contributors located opposite (Cavendish Mansions, 170-178 Clerkenwell Road and Gray's Inn Buildings, Rosebery Avenue). There is no additional information provided by the Appellant in their appeal submission which alters this view.

11.3 Paragraph 208 of the NPPF (now Paragraph 215 of the new NPPF 2024) states in this regard that '*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use*'.

- 11.4 Therefore, given that the appeal proposals would in the Council's view result in less than substantial harm to the significance of designated heritage assets, the Council must weigh this harm against any public benefits of the appeal proposals.
- 11.5 The proposed Pulse Smart Hub would provide free Wi-Fi and phone calls with charging facilities, wayfinding / mapping services, air quality and environmental sensors, local information provision, 999 emergency service and safety buttons, built-in defibrillator and nasal naloxone opioid antagonist. While these facilities would be available for public use, there is no evidence that these facilities can only be provided on a street-based hub structure of the scale proposed and with the inclusion of two large illuminated digital screens.
- 11.6 Furthermore, no details have been provided as to how these types of facilities might be appropriately and safely used, especially in regard to the defibrillator and available drug (nasal naloxone opioid antagonist). Particular concern has been raised by the Metropolitan Police in regard to the availability and supply of this drug in the way proposed from a street-based Pulse Smart Hub as it is currently a prescription only medicine (see Paragraphs 3.73 to 3.91 of the Officer's Delegated Report for further details - 'Security, crime and anti-social behaviour'). The ability of members of the public to use a defibrillator in the correct way or administer a drug in a safe manner is questionable and raises concern, as does the potential for their misuse when made freely available from an unmanned and unsupervised structure on the public highway.
- 11.7 Moreover, no details have been provided on the location of other existing defibrillator coverage within the area or any consideration as to whether there might already be scope for providing public messaging capabilities in some better way. Additionally, given the prevalence of personal mobile phone and portable battery charger ownership amongst members of the public, opportunities to communicate via phone or internet are common and widespread. Therefore, many of the facilities provided by the Pulse Smart Hub are already available and easily accessible to the public by other means without the need for an additional street-based hub to be sited on an uncluttered section of the public highway. A Legible London wayfinding sign, for instance, is already located within a few metres of the proposed appeal site and freely available for public use (as shown in Image 5 above).
- 11.8 It is also noted that providing some of the facilities of the type proposed by means of a street-based hub have the potential to encourage anti-social behaviour (see Paragraphs 3.73 to 3.91 of the Officer's Delegated Report for further details - 'Security, crime and anti-social behaviour'). When considering this and other concerns highlighted above, the extent of benefit to the public from the facilities that are proposed to be provided by the Pulse Smart Hub is questionable and limited.
- 11.9 Finally, it is also important to note that Camden has declared a climate emergency and considers the reduction in carbon emissions to be critical. These appeal

proposals go against that, with embodied carbon involved in the creation of the new hub unit and operational carbon associated with running two illuminated digital screens on a daily basis. The appeal proposals would therefore contribute to the threat of climate change and the irreversible damage to our planet it may cause. This would be detrimental to health, well-being and living conditions of members of the public and is therefore also taken into consideration when weighing up the extent of public benefit arising from the appeal proposals.

11.10 Overall, therefore, weighing the less than substantial harm caused as a result of the proposed development against any public benefit arising from the Pulse Smart Hub, it is considered on balance that any benefit to the public would be limited and would not outweigh the harm caused to the significance of the designated heritage assets identified in Paragraphs 9.5 to 9.26 above (and Paragraphs 3.1 to 3.32 of the Officer's Delegated Report - 'Design and appearance').

11.11 Therefore, while due consideration has been given to any potential public benefit arising from the appeal proposals, the proposed development would not accord with Chapter 16 (Conserving and enhancing the historic environment) of the NPPF which seeks to preserve and enhance heritage assets, and would also be contrary in this regard to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan, and as such, unacceptable in design terms.

12.0 Maintenance plan and legal agreement

12.1 The Appellant argues that the application and appeal submissions demonstrate that the proposals represent well maintained street furniture with a deliverable management plan and that an appeal allowed in 2018 for GPDO Prior Approval did not include a legal agreement to address the maintenance of a kiosk, and therefore, they will not be entering into a legal agreement in regard to the current appeal proposals.

12.2 The Appellant submits that the requirement for the Appellant to enter into a Section 106 legal agreement fails at least two of the three legal 'tests' set out in the Community Infrastructure Regulations 2010 (as amended).

13.0 Response to ground of appeal 5

13.1 Contrary to the Appellant's assertion, the Council considers that the application and appeal submissions are not sufficiently detailed nor demonstrate adequate consideration for concerns held by the Council in regard to the maintenance of the proposed hub structure.

13.2 Firstly, it is noted that the Metropolitan Police Crime Prevention Design Advisor raised several concerns in regard to the appeal proposals given the absence of a suitable anti-social behaviour (ASB) management plan and the absence of details in

regard to any information sharing agreement and safety protocols with the Metropolitan Police, London Ambulance Service and London Fire Brigade.

- 13.3 The Metropolitan Police also raised concern with a lack of clarity on how the 999 Emergency button would operate and details in regard to the 'automatic triggers' referred to in the appeal submission (such as, restriction of Wi-Fi if misused, restriction on calls to 'overused' phone numbers, etc.) and how this might be addressed.
- 13.4 Whilst the application and appeal submissions refer to ongoing maintenance and management, it is not considered sufficient to address the fact that ASB would be encouraged by the design of the kiosk itself. In an Appeal decision (Ref: APP/X5210/W/20/3253878 and 3253540 – Appendix D), the Planning Inspector noted *'the appellants' proposed maintenance regime would be likely to reduce the effects of such ASB. However, the form of the structure provides a degree of screening for such behaviour and would be likely to encourage it'*.
- 13.5 This is also supported by the Planning Inspector when dismissing an appeal against the Council's refusal for a proposed installation of new BT Street Hub incorporating LCD advert screens (Ref: APP/X5210/W/22/3297273 & 3297276 – Appendix E) on 02/11/2022. In considering the appellant's intentions to maintain the new BT Street Hub, the Inspector concluded, *'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'*.
- 13.6 It is similarly considered in the case of the current appeal that in the event of vandalism or disrepair of the proposed hub structure, it could become an eyesore within the streetscene in the absence of a secured maintenance plan, by virtue of its size, bulk, illumination and general prominence.
- 13.7 While the Appellant also argues that a legal agreement is not required as the need does not satisfy the tests as specified within the Community Infrastructure Regulations 2010 (as amended), the Council hold a contrary view and consider all tests under Regulation 122 to be relevant and satisfied.
- 13.8 The judge in *Tesco Stores Limited v SSE* [1995] 2 All E.R. 636, in which the House of Lords had ruled that whether an obligation was 'necessary' (and, by implication, whether it was directly, fairly and reasonably related to the development) was a matter of planning judgment for the decision-maker, and that if an obligation *'has some connection with the proposed development which is more than de minimis then regard must be had to it. The extent, if any, to which it affects the decision is a matter entirely within the discretion of the decision-maker.'*

- 13.9 In the current appeal case, the Council considers that a planning obligation to secure a maintenance plan is necessary to make the development acceptable in planning terms, that it directly relates to the development itself, and is fairly and reasonably related in scale and kind. In this regard, it is the Council's view that the 'tests' set-out under Section 122 of the Community Infrastructure Regulations 2010 (as amended) have been met.
- 13.10 Relevant to further consideration of this matter is the above appeal in 2022 against the Council's refusal for a similar hub structure, also incorporating LCD advert screens (a BT Street Hub in that case) (Ref: APP/X5210/W/22/3297273 & 3297276 – Appendix E). In dismissing the appeal, the Inspector concluded in regard to the need for an obligation to provide a maintenance plan secured by a legal agreement, *'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'*.
- 13.11 As such, while each case must be considered on its own individual merit and whether an obligation of this kind is appropriate may vary depending on the particular circumstances of each case, the Council considers that in the absence of a legal agreement to secure a maintenance plan for the proposed hub structure, the appeal proposals would be detrimental to the quality of the public realm and detract from the character and appearance of the streetscene.
- 13.12 This would therefore be contrary to policies D1 (Design), G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.

14.0 Other matters

- 14.1 Should the Inspector be minded to allow the appeals, the following conditions and related Section 106 legal agreement matters are suggested for consideration:
- 14.2 Advertisement Consent conditions – see Appendix G
- 14.3 Full Planning Permission conditions – see Appendix H
- 14.4 The Section 106 requirement and justification is addressed in Sections 12 and 13 above. The Council would agree to enter into legal agreement regarding the maintenance and management of the proposed hub, should the Inspector be minded to allow the appeal.

14.5 As such, the Council contacted the Appellant in order to arrange for a draft agreement to be provided; however, the Appellant was unwilling to engage in this process for the reasons set out in their appeal submission.

14.6 Notwithstanding this, the Council remains willing to liaise with the Appellant and provide the Inspector with a draft legal agreement at final comments stage should this be necessary.

15.0 Conclusion

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

15.2 If any further clarification of the appeal submission is required, please do not hesitate to contact Tony Young on the above direct dial number or email address.

Yours sincerely,

Tony Young
Planning Officer - Planning Solutions Team
Supporting Communities Directorate
London Borough of Camden

Appendices referred to in this Statement:

Appendix A: Planning appeal decision 3195374 – allowed dated 12/09/2018

Appendix B: Planning appeal decisions 3254037 and 3252962 – dismissed dated 16/10/2020

Appendix C: Planning appeal decisions 3341451 and 3341453 – dismissed dated 21/08/2024

Appendix D: Planning appeal decisions 3253878 & 3253540 – dismissed dated 16/10/2020

Appendix E: Planning appeal decisions 3297273 and 3297276 – dismissed dated 02/11/2022

Appendix F: List of recent planning appeal decisions (x4 in total) – all x4 planning & advertisement consent appeals dismissed dated 22/05/2018

Appendix G: Advertisement consent application – suggested conditions

Appendix H: Planning permission application – suggested conditions

Appendix I: Section 106 Legal Agreement dated 20/12/2023 in relation to planning permission (ref. 2022/4259/P)