

## **Appeal against the London Borough of Camden Council's refusal of Full Planning and Consent to Display Advertisements**

### **Appeal Site:**

Pavement o/s 88 Tottenham Court Rd, London W1T 4TH (E529441, N181981)

### **Our BT Street Hub Ref:**

CAM006

### **Council LPA Ref(s):**

2021/3915/P - Appeal A

2021/4375/A - Appeal B

### **Proposal:**

Removal of (2) existing BT payphones and the installation of (1) freestanding BT Street Hub providing free ultrafast Wi-Fi and other community services and with excess space returned to the community.

### **Associated BT Public Kiosk Removals:**

Pavement o/s 93 Tottenham Court Rd, London W1T 4TW, (E529433, N181990)

Pavement o/s 24 Torrington Place, London WC1E 7HJ (E529553, N181975)



Image 1 – Existing



Image 2 - Photomontage

## **Appendix**

Appendix A – Application forms

Appendix B - Developers Notice

Appendix C – Planning and design drawings

Appendix D – Full Planning application Decision Notice

Appendix D – Advertisement application Decision Notice

Appendix D – Full Planning and Advertisement Delegated Report

Appendix E - LinkNYC kiosks improving quality of life in the Big Apple

Appendix F – WiFi Marketing\_ What It Is and How Retailers Can Use It

Appendix G – Free Wi-Fi would encourage over 80 percent of shoppers to visit local retailers

Appendix H - Appeal ref. APP/X5210/W/18/3211168 23 Tottenham Court Road, London W1T 1BJ by  
Inspector M Andrews.

Appendix I – BT Anti-Social Behaviour Management Plan

Appendix J - Appeal Ref. APP\_Z4310\_W\_18\_3205104 Church Street (Outside No.1-5 Forever 21)

Appendix K - Appeal Ref. 3254037 197 Kentish Town Road, London NW5 2JU by Inspector I A Dyer

Appendix L – Appeal ref. 3195370 Lead Case by Inspector N Fagan

Appendix M - TFL objection Ref 2017\_3544\_P

Appendix N - TfL Guidance for Digital Roadside Advertising and Proposed Best Practice

Appendix O - Appeal ref. 3253878 216-217 Tottenham Court by Inspector I A Dyer

Appendix P - LPA ref 20180519A Clear Channel Decision notice

Appendix Q - Appeal Ref 3201678 OS Peakcocks, 47-51 High Street, London

## Introduction

For the avoidance of background reputation so far as is practicable in this appeal statement, the appointed Inspector is respectfully asked to refer to the documents submitted as part of the full planning permission and advertisement consent submission.

The BT project to replace the existing estate of telephone kiosks on the Tottenham Court commenced in 2018 with applications for the rollout of InLink units. At the general location of the proposed Street Hub the applications ref. 2018/4244/P 2018/4510/A were submitted and subsequently withdrawn following the incumbent supplier, InLinkUK, going into administration. Since then and following the redevelopment of the public realm on Tottenham Court Road, the requirement was reassessed and pre-application consultations commenced between the Council and Camden Council in June 2021.

The proposed development is a freestanding Street Hub unit that forms an integral part of a new city-wide network across Camden, based on upgrading the existing BT estate of public call boxes. The Street Hub network will provide the residents and visiting populations with an unprecedented suite of essential urban tools, including free ultrafast Wi-Fi, phone calls, wayfinding, device charging, an emergency 999 call button, public messaging capabilities, and a platform for interactive technologies on the streets such as air quality monitoring.

This appeal proposal is part of a wider roll-out of Street Hub units across Camden and will bring forward significant social, economic and technological benefits to the public. Street Hubs seek to upgrade their existing BT estate, by associating two kiosk removals for every new unit, in which the fall-back position is the retention of the existing payphone infrastructure.

A combined application for planning permission and consent to display advertisements was submitted to the Council on 13<sup>th</sup> August 2021 (Appendix A, B, C and D), where applications ran in parallel and were refused on 07<sup>th</sup> March 2022. The appellant's statement of the case in support of the applications is outlined below.

## The Positive Case for Street Hub

This statement will outline in greater detail how the proposal is in accordance with National and Local Plan policies, guidance and the public benefits of the Street Hub proposal. We have outlined in detail the tangible benefits, but we would go further by highlighting how this proposal and the overall strategy will help deliver the goals of the Local Plan and Digital Strategy.

The Officer's Report states in para 5.21 that '*No justification has been submitted for the need to install a new, replacement kiosk. Refusal is therefore recommended on this basis*'. It is important to note from the outset that this appeal forms part of an overarching project to remove all of the existing BT kiosks on Tottenham Court Road, as part of a process of removing stock that has fallen into disrepair and improving the public realm by upgrading them with the modern Street Hub.

Moving on, whilst it is acknowledged that the proposed Street Hub will have negative impacts, from an objective perspective, these are outweighed by the significant benefits provided by the proposed unit which this appeal will compare.

## **National Planning Policy Framework 2021**

### 10. Supporting high quality communications

Paragraph 114 of the NPPF stipulates that *'Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections'*. As one of the primary purposes of the proposal, this is provided by the Street Hub unit and clearly contributes to the achievement of the policy.

Paragraph 115 goes further by stating the *'Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate'*. The design of the proposal as an advertising column, similar to well-established street furniture such as advertisements built into bus shelters, provides WiFi capability but also crucially small cell coverage and capacity for 5G services. All of this is camouflaged within the unit, contributing to the extension of the 5G network which undoubtedly become a contentious issue in the near future.

Furthermore, the rollout of the 5G network is continuing at apace and the constant issue of providing effective coverage to areas such as the above is a constant source of frustration for all parties concerned. The under-appreciated benefit of the Street Hub is that it offers the area small cell 5G coverage with inbuilt equipment, in a manner that does not impact the integrity or visual amenity of the heritage asset in the same way as traditional installations.

### 12. Achieving well-designed places

Paragraph 126 states *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'*. The proposed Street Hub is an award-winning and well-designed feature, that aims to replace existing BT kiosks that no longer positively contribute to the aesthetic of the public realm.

Paragraph 130 continues that development should *'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users'*. We would highlight that the core principle of the Street Hub design is to ensure that the unit is inclusive and accessible to all, something that the existing kiosks that have been designated for replacement are not.

In terms of the positive case for the proposal, the basis of the argument that this appeal will set out is based on paragraph 202. This states 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'*.

The proposal is located close to Charlotte Street Conservation Area, but the proposed Street Hub has been positioned in such a way that the integrity or distinctiveness of the designated area is not affected to the degree that would warrant the refusal of the application. When balanced against the benefits that the Street Hub has to offer to the immediate area and as a strategic asset to the Camden area overall, the proposal will be shown to meet the objectives of the various national and local policies.

With specific regard to advertisements, paragraph 136 states that *'The quality and character of places can suffer when advertisements are poorly sited and designed'*. Payphone kiosks are an established means of accommodating advertising, but as the kiosk degrades in quality, so does the quality of the advertisement and its effectiveness. The Street Hub, with its digital format and the rigorous cleaning schedule that BT has undertaken to maintain, will fundamentally improve the quality of advertisement that the applicant intends to provide.

### **London Plan 2021**

Policy GG1 outlines a number of important goals that the proposed development actively supports. The policy states that *'to build on the city's tradition of openness, diversity and equality, and help deliver strong and inclusive communities, those involved in planning and development must:*

- A. *encourage early and inclusive engagement with stakeholders, including local communities, in the development of proposals, policies and area-based strategies.*
- B. *seek to ensure changes to the physical environment to achieve an overall positive contribution to London.*
- C. *provide access to good quality community spaces, services, amenities and infrastructure that accommodate, encourage and strengthen communities, increasing active participation and social integration, and addressing social isolation.*
- D. *seek to ensure that London continues to generate a wide range of economic and other opportunities and that everyone is able to benefit from these to ensure that London is a fairer, more inclusive and more equal city.*
- E. *ensure that streets and public spaces are consistently planned for people to move around and spend time in comfort and safety, creating places where everyone is welcome, which foster a sense of belonging, which encourage community buy-in, and where communities can develop and thrive.*
- F. *promote the crucial role town centres have in the social, civic, cultural and economic lives of Londoners, and plan for places that provide important opportunities for building relationships during the daytime, evening and night time.*
- G. *ensure that new buildings and the spaces they create are designed to reinforce or enhance the identity, legibility, permeability, and inclusivity of neighborhoods and are resilient and adaptable to changing community requirements.*
- H. *support and promote the creation of a London where all Londoners, including children and young people, older people, disabled people, and people with young children, as well as people with other protected characteristics, can move around with ease and enjoy the opportunities the city provides, creating a welcoming environment that everyone can use confidently, independently, and with choice and dignity, avoiding separation or segregation.*

In terms of the positive contribution to London, the new generation of BT kiosk deployment with their free services is unmatched, available in an open and inclusive fashion manner that will benefit everyone. Whilst the scale of economic benefit that the Street Hub will create is unknown, the appeal of free Wi-Fi is undoubtedly more attractive than it deters and will have a positive impact on the area. We would refer to Appendix E, F and G below that support this position. In terms of the proposal's impact on access that could affect the more vulnerable, the proposal will replace the adjacent kiosks and as a result, will remove excessive clutter and improve access.

Policy D5 Inclusive Design states that *'Development proposal should achieve the highest standards of accessible and inclusive design. They should provide high-quality people-focused spaces that are designed to facilitate social interaction and inclusion'*. D5 continues that development should *'be*

*convenient and welcoming with no disabling barriers, providing independent access without additional undue effort, separation or special treatment.'* The Street Hub is a highly designed concept that represents a modern improvement to the street scene whose services are accessible and inclusive to all who wish to use it.

Policy SI 6 Digital connectivity infrastructure is a principal policy that the proposed Street Hub will support and be a key asset that will lead to the policy being successfully achieved. Given its importance, it is outlined below to support the appeal;

*A. To ensure London's global competitiveness now and in the future, development proposals should:*

- 1. ensure that sufficient ducting space for full fibre connectivity infrastructure is provided to all end users within new developments, unless an affordable alternative 1GB/s-capable connection is made available to all end users.*
- 2. meet expected demand for mobile connectivity generated by the development.*
- 3. take appropriate measures to avoid reducing mobile connectivity in surrounding areas; where that is not possible, any potential reduction would require mitigation.*
- 4. support the effective use of rooftops and the public realm (such as street furniture and bins) to accommodate well-designed and suitably located mobile digital infrastructure.*

*B. Development Plans should support the delivery of full-fibre or equivalent digital infrastructure, with particular focus on areas with gaps in connectivity and barriers to digital access.*

Policy SD6 Town Centres and High Streets outlines that *'The vitality and viability of London's varied town centres should be promoted and enhanced by delivering sustainable access to a competitive range of services and activities by walking, cycling and public transport'* and *'supporting the role of town centres in building sustainable, healthy and walkable neighbourhoods with the Healthy Streets Approach embedded in their development and management'*. The services provided by Street Hub are award-winning in terms of their accessibility to all, something that the redundant kiosks are not. The free services undoubtedly encourage greater activities noted above, with the provisions of improved access to WiFi and cellular services that are essential to modern wayfinding.

Policy SD6 continues to discuss that the *'adaptation and diversification of town centres should be supported in response to the challenges and opportunities presented by multi-channel shopping and changes in technology and consumer behaviour.'* Online services have become a key feature of modern life and free WiFi, consciously or not, is something that improves the quality of experience in a town centre. If the experience is positive, people will return and this is something that Street Hub contributes to. This also supports Policy E10 Visitor Infrastructure, in which the use of Street Hub units from other parts of London, the UK and other major cities such as New York has been shown to greatly improve the visitors experience. Please refer to Appendix E or the link below.

<https://www.retailcustomerexperience.com/articles/linknyc-kiosks-improving-quality-of-life-in-the-big-apple/>

Policy HC6 Supporting the night-time economy states that *'In Development Plans, town centre strategies and planning decisions, boroughs should promote the night-time economy, where appropriate, particularly in the Central Activities Zone, strategic areas of night-time activity, and town centres where public transport such as the Night Tube and Night Buses are available'*. Camden Council

encourages the night time economy and in terms of access, inclusion and safety, the Street Hub will play an important role in facilitating this.

The use of Street Hub will actively contribute towards achieving these goals, as the proposed technology will unquestionably provide and extend fast digital connectivity. As a consequence, growth will improve by contributing for instance towards the evening and night time scene, Street Hubs helps to encourage greater access to public transport and a sense of safety that provides reassurance that its high-quality services are always available.

The following link helps to illustrate the benefits of free WiFi when provided, *'Improved shopping experience: Almost 62% of businesses that provide free WiFi report that their customers stay longer, according to Devicescape survey. This could indicate that shoppers are enjoying their in-store experiences more, and therefore willing to spend more time with your brand'*. Whilst relating to in-store services, the same logic applies to the wider street scene. As such, it is clear that the longer people remain in the area, the growth will increase and contribute to a good mix of use in the area. Please refer to Appendix F or the link below.

<https://www.shopify.com/nz/retail/wifi-marketing-what-it-is-and-how-retailers-can-use-it>

Furthermore, *'Some 82 percent of British shoppers would be more likely to visit independent high street retailers if they had free Wi-Fi access, a new study has found'*. Please refer to Appendix G or the link below.

<https://businessadvice.co.uk/high-streets-initiative/free-wi-fi-would-encourage-over-80-per-cent-of-shoppers-to-visit-local-retailers/>

### **Camden Local Plan 2017**

Policy A1 Managing the impact of development - *'The Council will seek to protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity. We will seek to ensure that the amenity of communities, occupiers and neighbours is protected and seek to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities'*.

Policy C5 Safety and security - *'The Council will aim to make Camden a safer place. We will require developments to demonstrate that they have incorporated design principles that contribute to community safety and security'*.

Policy C6 Access for all - *'The Council will seek to promote fair access and remove the barriers that prevent everyone from accessing facilities and opportunities. We will expect all buildings and places to meet the highest practicable standards of accessible and inclusive design so they can be used safely, easily and with dignity by all'*.

Policy D2 Heritage Conservation Areas - *'The Council will require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area'*.

Policy D2 Heritage Listed Buildings - *'To preserve or enhance the borough's listed buildings, the Council will resist development that would cause harm to significance of a listed building through an effect on its setting'*.



Policy D4 Advertisements – The policy states *'The Council will require advertisements to preserve or enhance the character of their setting and host building. Advertisements must respect the form, fabric, design and scale of their setting and host building and be of the highest standard of design, material and detail. We will support advertisements that: a. preserve the character and amenity of the area; and b. preserve or enhance heritage assets and conservation areas'*.

Policy G1 Delivery and location of growth - *The Council will deliver growth by securing high-quality development and promoting the most efficient use of land and buildings in Camden by supporting development that makes best use of its site, taking into account quality of design, its surroundings, sustainability, amenity, heritage, transport accessibility and any other considerations relevant to the site.*

The new Local Plan places considerable emphasis on the encouragement of cycling, walking and the use of public transport. The services provided by Street Hub are award-winning in terms of their accessibility to all, something that the redundant kiosks are not. The free WiFi undoubtedly encourages greater activities noted above, with the provisions of improved access to services that are essential to modern wayfinding. As such, the following policies highlight cycling, walking and the use of public transport as a means of achieving the aims of the plan.

Policy C1 Health and wellbeing - *The Council will improve and promote strong, vibrant and healthy communities through ensuring a high-quality environment with local services to support health, social and cultural wellbeing and reduce inequalities. The Council will require: a. development to positively contribute to creating high quality, active, safe and accessible places'. An integrated approach to health and wellbeing, para 4.14 states that 'active travel, such as walking and cycling, is one of the easiest and most cost-effective means for people to achieve substantial health benefits. Our transport policies prioritise active travel choices and seek to improve the walking and cycling environment'.*

Policy D1 Design – With regard to local character and context, para 7.2 notes that *'The Council will require all developments, including alterations and extensions to existing buildings, to be of the highest standard of design and will expect developments to consider:*

- *character, setting, context and the form and scale of neighbouring buildings;*
- *the character and proportions of the existing building, where alterations and extensions are proposed;*
- *the prevailing pattern, density and scale of surrounding development.'*

Para 7.12 states that *'Buildings and spaces should also allow people to easily navigate their way around an area – a quality known as legibility. Designs should provide recognisable routes and be easy to understand. Buildings and spaces should be permeable by providing clear and direct routes between places. Routes should be direct, safe and attractive for walking and cycling'*. Para 7.17 continues *'Planning has a key role in promoting good physical and mental health by creating streets, spaces and buildings which allow and encourage healthy lifestyles. Architecture and urban design can affect human health through the quality and design of buildings and spaces, access to open space and nature, air quality, noise, opportunities for active transport such as walking and cycling, crime reduction and social cohesion'*.

Under section 10 Transport, para 10.3 states that *'Sustainable transport choices and 'active travel' (travel requiring a person to exercise - such as walking and cycling) in particular are likely to be the main ways that Londoners meet their physical activity needs'*.

Policy T1 Prioritising walking, cycling and public transport - *The Council will promote sustainable transport by prioritising walking, cycling and public transport in the borough.*

*Walking - In order to promote walking in the borough and improve the pedestrian environment, ensure that developments improve the pedestrian environment by supporting high-quality public realm improvement works and provide high-quality footpaths and pavements that are wide enough for the number of people expected to use them. Features should also be included to assist vulnerable road users where appropriate.*

*Cycling - In order to promote cycling in the borough and ensure a safe and accessible environment for cyclists, the Council will seek to ensure that development provides for and makes contributions towards connected, high quality, convenient and safe cycle routes'.*

With all the features that the Street Hub will provide, a modern and award-winning designed replacement feature will significantly contribute to the achievement of these policies. Services that will encourage walking and cycling include high specification wayfinder applications and free Wi-Fi which is essential for public transport for visitors or those who are unfamiliar with the area.

#### **Camden Planning Guidance Design – January 2021**

The Key Messages of the guidance for Designing Safer Environments, relating to the proposal are;

- *The Council requires that developments demonstrate that they have been designed to contribute to community safety and security.*
- *Designing-against crime features, safe access and security measures must complement other design considerations and be considered as part of a holistic approach to designing and maintaining safer environments for all.*
- *Better designed environments support safer and healthier communities.*
- *Consideration will be given to the impact of measures on the surrounding area to ensure that there is not displacement of activity into surrounding neighbourhoods.*
- *Safer environments support healthier communities.*

Paragraph 7.5 notes that *'Crime and the fear of crime can undermine people's quality of life, health and wellbeing. Planning can play an important role in reducing crime and the perception of crime and help to create places that are well-used, safe and secure.'*

Paragraph 7.41 states *'The siting and appearance of public call boxes and telephone boxes, on the public highway must be carefully and sensitively considered and appropriately designed in order to reduce or prevent street clutter in the wider public realm, to maintain community safety and within Conservation areas, or in close proximity to heritage assets (e.g. Listed buildings, designated monuments), to prevent harm to the particular character of the Conservation area or heritage assets'.*

#### **Camden Planning Guidance Digital Infrastructure – March 2018**

Paragraph 3 of the guidance states that *'One of the Council's priorities for delivering growth and harnessing its benefits for the borough is securing infrastructure and services to meet the needs of Camden's growing numbers of residents, workers and visitors. The Council aims to enable improved internet access through the acceleration of high-speed connectivity, including public wireless systems'.* The guidance notes the key message that *'the Council will support the expansion of electronic communications networks, including telecommunications and high-speed broadband'.*

The use of Street Hub will actively contribute towards achieving these goals, as the proposed technology will unquestionably provide and extend fast digital connectivity. As a consequence, growth will improve by contributing for instance towards the evening and night time scene, Street Hubs helps to encourage greater access to public transport and a sense of safety that provides reassurance that its high-quality services are always available. We would again refer you to Appendix E, F and G regarding the benefits of free WiFi when provided.

With regard to Telecommunications Equipment, paragraph 12 of the Planning Guidance states *'In line with the NPPF, the Council will support the expansion of electronic communications networks, including telecommunications and high-speed broadband'*. Paragraph 13 continues that *'Existing masts, buildings and other structures should be used unless the need for a new site has been demonstrated to the satisfaction of the Council. Where new sites are required, equipment should be sympathetically designed and appropriately camouflaged where possible'*, which correlates with para's 114 and 115 of the NPPF.

## Appeal Introduction

Before the reasons for refusal are addressed, we would wish to clarify a number of points raised in the Officer's Report so that the circumstances of the development and project as a whole can be accurately assessed.

Whilst it is accepted that there is a sense of the unnecessary proliferation of kiosks in and around the Tottenham Court Road area, it is important to highlight that they all do not fall under the remit of BT. There are a number of electronic communications network providers who have similar kiosks, such as New World Telecom, whose advert provider is Clear Channel and Infocus whose advert provider is JCDecaux. These providers are all independent operators under the electronic communications code, with BT providing neither the services nor the responsibility to maintain the kiosks.

An example of this misconception is highlighted in the Officer's Report in paragraph 4.1. The report states that *'The proposal would also be contrary to the guidance of the National Planning Policy Framework (NPPF) which aims to keep telecommunication sites to a minimum and encourage applicants to explore shared facilities rather than adding additional clutter'*. We would wish to clarify that it is impossible to share kiosks in a similar fashion to mobile telecommunications sites. This is because as one of the common functions of similar kiosks, advertising space is not shared and it would be impossible to place small cell 5G equipment onto another operator's kiosk.

What is clear from the refusal and the planning process overall as part of this project, is that the Council does not, as a general rule, support kiosks in the Tottenham Court Road area. There are valid concerns that this appeal will address directly below, but it is of the utmost importance to highlight that BT has an Electronic Communications Code license and Universal Service Obligation (USO) governed by Ofcom to provide and maintain publicly accessible call boxes on the street, irrespective of whether or not there is a perception that they are used or not. We would refer to the links below, which outline BT's license obligations in terms of the USO.

<https://www.ofcom.org.uk/consultations-and-statements/category-2/pcb>

<https://www.ofcom.org.uk/consultations-and-statements/category-2/pcb>

The Officers Report highlights Policy D7 (Public Realm) of the London Plan 2021 states that development should *'Applications which seek to introduce unnecessary street furniture should normally be refused'*. We consider that BT's agreement with Ofcom addresses this issue, as the proposal is to replace existing BT kiosks and that the proposal should not be refused on this basis.

In paragraph 4.2 of the Officer's Report, it is stated that *'as a result of Covid, many facilities such as wayfinding have been switched off and are unlikely to be used in the same way. We have no evidence of how well these types of facilities are appropriately used, especially most exist on personal mobile phones'*. We would respectfully point out that this is speculation, with no basis in fact regarding BT's wayfinding strategy and we would request that the Inspector treats it as such. For the record, BT will maintain its full range of services provided by the Street Hub unit. Furthermore, it is unclear what the Report means when referring to the appropriate use of wayfinding services or indeed what inappropriate use would be. We would assume that they are used like any other wayfinding service and offers users of the Street Hubs services the flexibility to use wayfinding as they see fit.

We would also wish to correct an error in the Officer's Report regarding the size of the proposed Street Hub and the existing kiosks, as this will have an important bearing on the justification against the refusal of planning consent in Appeal A. The Officers Report states *'The proposal is to remove the existing kiosks which measure 0.9 metres wide and 2.5 metres high each. The proposed kiosk would be located nearby the existing kiosk and would measure 1.2 metres x 0.4 metres and are 3.0 metres high. The display screen would be 0.9 metres x 1.6 metres'*. The correct dimensions are:

Existing KX kiosk -	H 2.19m x W 0.89m x D 0.89m
Proposed Street Hub –	H 2.98m x W 1.236m x D 0.35m
Street Hub digital display screen –	H 1.67 x W 0.95m

Paragraph 4.2 of the Officers Report states *'There is no evidence before the Council .... or justification for the need for such a high number of kiosks within one street'*. Before we address this point directly, we would refer to paragraph 118 of the NPPF outlined below and would request that the Inspector treats this point with the relevant weight when determining this appeal:

*'Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system'*.

It should be emphasised that this proposal is part of a redevelopment of the BT kiosk estate, involving proposals for 10no Street Hub proposals that include the removal of all 21no kiosks on Tottenham Court Road. The reduction of the existing kiosks by a ratio of over 2:1 will visibly reduce the number and represents a more sustainable amount for the road.

## **LPA Ref. – 2021/3915/P (Consent for Full Planning Permission) Appeal A**

***“1. The proposed telephone kiosk, by reason of its height, bulk, design and location, would add visual clutter and detract from the character and appearance of the wider streetscene and adjacent conservation areas, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017 and Part 3 (Vision and objectives) of the Fitzrovia Area Action Plan 2014”.***

Street Hub is clearly a modern form of development, and in many ways its innovative design attributes reflect the technological advancements within the field of electronic communications over the course of the last decade. In order to accommodate the equipment necessary to provide the immediate and future benefits to the area as previously outlined including the advertising feature, the unit has to be the height and design that is proposed. Whilst there will always be some degree of harm from any form of development, the positive impact that the proposal will bring to the area will outweigh the negatives.

For instance, the site's immediate vicinity is dominated by modern glass-fronted commercial buildings with a brightly lit and vibrant open facade on both sides of the road. As can be seen in the photomontage (image 2), the design of the Street Hub blends in well with the adjacent buildings and surrounding street furniture in a harmonious way that is in no way obtrusive or detrimental to the character. The positioning of the Street Hub unit in the proposed location will clearly not harm the surrounding townscape as purported above.

The proposed location is not within a Conservation Area or close to any other heritage assets, but it is positioned opposite the Bloomsbury Conservation Area. The impact of the proposed Street Hub is not significant given the context that we have outlined regarding the suitability of the area to accommodate the proposed type of development. Whilst the importance of the Conservation Area is accepted, the buildings in the area close to the proposed site are designated as Central London Frontages in the Camden Council Local Plan, which lends itself to the likes of development as the proposed Street Hub. When viewed looking towards Tottenham Court Road, the bright and vibrant character of the road means that any impact created by the Street Hub is minimal and does not outweigh the benefits of the proposal. As the Local Plan designates the immediate area as Central London Frontage, we would assess being a suitable designated area for a Street Hub. As such, we consider the proposal complies with Policy D2.

In terms of clutter, the Street Hub unit will replace two long-established payphone kiosks, which occupy a larger footprint than the proposed development, so the removal of the existing kiosks will visibly reduce street clutter and will not create a net increase as stated in the reason for refusal. It is also felt that the existing kiosks are not in keeping with the existing street furniture and create greater obstacles to the free flow of pedestrian movements given their size than the proposed Street Hub would. They are also known to the Council and community to be problematic, which reinforces the rationale for their removal and replacement that is required as part of BT's USO agreement with Ofcom. Their removal and the installation of the new Street Hub unit will therefore have a positive impact on the area around the proposed location.

This point is reaffirmed by Image 3 below, which shows the kiosk on Torrington Place that is designated as one of the removal locations. The kiosk is clearly in a state of disrepair that detracts from the character of the Conservation Area and the adopted pavement width is only 2.2m, which is insufficient for safe pedestrian travel along the footway. As such, the removal of the kiosk will have a positive impact at this location that will benefit the area as a whole.



Image 3

The Officers Report refers to 2no Appeals for kiosks on Tottenham Court Road, that belong to another Electronic Communications Operator and have no connection to BT's asset estate. Whilst it is recognised that the Officer is making a general point about the concept of the proposal and its suitability on Tottenham Court Road, we would wish to expand the context of para 3.5 in the Officer's Report. Appeal ref. APP/X5210/W/18/3211168 (Appendix H) paragraph 14 states:

*'The proposed call box would be positioned in the line of street furniture closest to the kerb and would be read in close proximity with a pair of older style phone kiosks. Furthermore, along the same alignment in this section of the road are other such kiosks and a freestanding advertising sign'* Paragraph 15 continues *'In these circumstances I consider that the proposed call box would constitute a harmful addition to the existing clutter of this part of the street scene'*.

In terms of context, this dismissed proposal was for a new kiosk to be installed without any existing street furniture being removed. In total, 2no of the existing BT kiosks will be removed creating a positive change to the street scene compared to the dismissed appeal cited by the Officer. It is our assessment that the proposed Street Hub will fundamentally improve the street scene, which aligns with Policy D1 of the Camden Local Plan and offers a feature that will provide free, accessible services to the general public and the local economy.

The Officers Report refers to another appeal for kiosks at 216-217 Tottenham Court Road, that belongs to another Electronic Communications Operator and has no connection to BT's asset estate. It is accepted that the Inspector did not consider the proposal to be an appropriate development within this section of the Conservation Area, we would wish to expand the context of para 5.4 in the Officer's Report. Appeal ref. APP/X5210/W/20/3253878 (Appendix I) paragraph 18 states:

*'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'.*

In terms of context, we would wish to add that this dismissed proposal was for a new kiosk to be installed without any existing street furniture being removed at this location. It is our assessment that the proposed Street Hub will fundamentally improve the street scene, which aligns with Policy D1 of the Camden Local Plan by removing the existing phone kiosks from outside and within an important heritage asset. The Street Hub will also offer features that will provide free, accessible services to the general public and benefits to the local economy, something that the New World Telecoms kiosk cited in the appeal does not.

In D7 (Public Realm) of the London Plan, it is accepted the proposed Street Hub is a striking additional feature to the public realm. However, in addition to the points made above the site is not in an isolated and exposed location that is overbearing in the overall context of the street scene. The location of the Street Hub in a central London environment provides context and the modern design complements the surrounding building. We would refer to the central theme in support of the scheme, that the benefits of the proposal outweigh the negative impact and therefore complies with para 202 of the NPPF.

As such, the appellant is confident that the proposal does not conflict with the NPPF, the London Plan, policy D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017 and Fitzrovia Area Action Plan 2014.

***"2. The proposed telephone kiosk, by virtue of its location, size and detailed design, adding to unnecessary street clutter, would reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm, cause harm to highway and pedestrian safety and hinder pedestrian movement and have a detrimental impact on the promotion of walking as an alternative to motorised transport, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017".***

The Street Hub will not add unnecessary clutter or reduce the amount of useable and unobstructable footway to the degree that it would justify the refusal of the application. In terms of the reduction in clutter, based on the correct measurements noted above, the removal of 21no existing kiosks on or close to Tottenham Court Road is going to free up 16.59 square meters of pavement and 36.44 cubic meters of clutter overall. This is in contrast to 10no proposed Street Hubs using 4.3 square meters of pavement and creating 12.89 cubic meters overall. This is a net reduction of 12.26 square meters and 30.51 cubic meters of street furniture clutter in total.

The issue of pedestrian and highway safety is important to address, as this appeal does not recognise that there is any conflict when compared to the existing arrangement of street furniture in the area. It should be noted from the outset, that neither the Council Transportation Department nor Transport for London (TfL) has formally objected to the application. The Officer's Report refers to the TfL Pedestrian Comfort Guidance for London (2010) in paragraphs 5.8 and 5.18, and to Streetscape Guidance in para 7.8. However, if there was a clear breach of their guidance and highway safety was compromised, then we would expect a formal objection to be forthcoming.



The Officer's Report provides an example of a dismissed Appeal Ref: APP/X5210/W/20/3254037 (Appendix J). This appeal disagrees with the description of the above-dismissed Appeal as a *'phone kiosk of a marginal smaller scale but similar design approach'* that is a New World Telecom site, with no relation to BT. Whilst there are similarities, the proposal is located in a main district street location, as opposed to the city centre environment designated as Central London Frontages in the Camden Local Plan. There is also a considerable difference in available pavement width that the respective proposals would have. The New World Telecom site would leave 2.7m of available space for pedestrians to use, but the proposed Street Hub would have 6m which is significantly better and in comparison will not have the same impact on the amenity of the surrounding area. As such, we consider that this Appeal is not an accurate comparison to make and request that the Inspector treats it with the appropriate material weight.

In addition, the Officer's Report also refers to appeal APP/X5210/W/18/3211168, which relates to LPA Ref 2018/0310/P (Appendix H) and was dismissed. The proposal was considered to *'constitute a harmful addition to the existing clutter of this part of the street scene'*. However, it is important to highlight that the dismissed appeal was for a proposal for a new standalone kiosk that does not include the removal of any existing street furniture, as opposed to the Street Hub which will remove 2no existing kiosks and reduce existing clutter. The location of the kiosk is important in terms of the dismissed appeal, given that it is located in an inappropriate location considerably closer to the road, compared to the Street Hub which aligns itself with the existing street furniture in a safe and sustainable manner.

A set of appeals (Appendix K) on behalf of Euro Payphone Limited along Euston Road, which BT had no involvement with, are offered as an example of kiosks that introduced unnecessary clutter. Whilst there are admittedly transferable points, it is important to note that each of the proposals introduced new kiosks without the removal of any existing street furniture and all of the applications received objections from TFL (Appendix L), which the Street Hub applications have not. As a result, the project represented a significant increase in net clutter, unlike the Street Hub project on Tottenham Court Road where the proposed units have smaller units in terms of their footprint and mass. The Inspector also made the following observation that:

*'I note that the floor area of the appellant's kiosk would be considerably greater than BT's K2, K6 or modern kiosks and due to this and their height they would appear as substantial structures on the pavement. I also noticed that some of the existing kiosks of similar size in the area exhibited evidence of being used for sleeping in by homeless people. The phones in some of the kiosks also appeared not to be functioning. These circumstances suggest that some of the existing kiosks are not being used for the purpose for which they were intended, which puts into question their primary purpose.'*

This observation the dismissal of the appeals, given that the Inspector recognises that there are issues with the proposal and little or no benefits to the local area, which is in complete contrast to the proposed Street Hub. The comparison is therefore not considered to have sufficient weight to support the refusal of the application.

The proposed location of the Street Hub on Tottenham Court Road is within a retail and commercial street that has premises with bright well lit and vibrant appearances, designated as Central London Frontages in the Camden Local Plan. The Street Hub unit is approximately the same height as the bus shelter to the south east of the site and when viewed within the overarching context of Tottenham Court Road, given its exceptionally slender design compared to the established kiosks, it will assimilate well into the surrounding street scene. The Street Hub's modern and streamlined appearance will represent a significant improvement on the outdated and visually uninspiring kiosks. It is contended therefore that the proposal fundamentally seeks to improve the amenity of this section of Tottenham

Court Road, in keeping with the bustling and vibrant character of its wider context. In terms of the suitability of the area in general, it is clear that a commercial and busy public transport area is ideally suited for this type of development.

With regard to the issue of the impact of the site on the public realm, it is felt that the removal of the existing telephone kiosks will fundamentally improve the overall street scene. Although their existence is required to conform with the terms of BT's USO agreement with Ofcom, it could be said that their outdated appearance detracts from the setting of the townscape. It is accepted that the proposal is not a direct replacement, but not all existing kiosks are in locations that are suitable for the development of Street Hubs and in order to be effective, they need to be in areas of high footfall and usage. In this instance one replacement is approximately 30m to the north east and the other is located 100m approx on Torrington Place. However, it is unquestionable that the removal of the existing kiosks will declutter the wider area and therefore positively contribute to the improvement of the public realm.

The Officers Report notes that *'The proposal to install a replacement telephone kiosk at the above site would introduce a significant physical and visual obstruction to an otherwise clear and unobstructed pedestrian environment'*. In terms of the impact of the proposed development on pedestrian safety, the unit will not hinder movement and as outlined above, the removal of the existing kiosks will dramatically improve the conditions along Tottenham Court Road.

The Officers Report continues that *'The proposed telephone kiosk would obscure sightlines along and across the footway significantly. Please note that the existing kiosk only partially obstructs sightlines, being largely transparent due to the absence of any end panels. The proposed telephone kiosk would therefore constitute an unnecessary obstruction/impediment and a hazard to road users'*. Given that neither the Council Transportation Department nor TFL has objected, this should be treated as speculation and should be treated by the Inspector with the appropriate weight.

With regard to the effect of the proposal on the obstruction of sightlines, the proposal is located between 2no large mature trees and is 20m from a large commercial kiosk already constitutes a significantly larger obstruction. Unless the Council can provide evidence that pedestrian safety is already hindered, then we would treat their rationale for refusal as conjecture. Our assessment is therefore that the installation of a smaller kiosk compared to what is already present, will not have sufficient impact that would justify the refusal of the application.

The remaining footway will have 6m clear space and slightly less if someone is using the tablet, which easily meets the 'double buggy' test for anyone passing by. The location was chosen specifically because it is positioned on the widest part of the pavement, so as not to adversely affect the pedestrian flow. As such, the impact will be negligible overall to the immediate area.

***"3. The proposed telephone kiosk, by reason of its scale, location and design would add unnecessary street clutter which would increase opportunities for crime in an area which already experiences issues with crime, therefore the proposal would be contrary to policy C5 (Safety and security) of the London Borough of Camden Local Plan 2017".***

BT has been proactive on this subject and their Anti-Social Behaviour Management Plan (Appendix M) was prepared to address this issue. The risk of crime, disorder, and the perception of it arising from a proposed use is a material planning consideration, however, it must be based on sound reasons and there needs to be reasonable evidence to base it on.

The Anti-Social Behaviour Management Plans address the potential issue of misuse directly and as BT are the sole provider of the embedded technology, working closely with the Metropolitan Police, they can make changes in real-time to individual Street Hub units and across the whole estate. Indeed, BT has seen criminal activity around the use of Street Hubs fall since these measures have been put in place, however, if there are any known areas of criminal activity in the vicinity of any of the appeal sites, or indeed at any BT kiosks, then once information is received and addressed through coordinated response with the Metropolitan Police. With regards to the issue of crime, the Metropolitan Police's concern regarding the seating area and street drinking raising the risk of antisocial behaviour, is an example of how BT would actively work with the authorities to take appropriate measures to eliminate any contribution that the Street Hub might create. However, there is no seating area close to the site, which confirms that the comments in the report are a sweeping statement to cover all the application sites and not an individual assessment of each site.

The Officers Report cites *'The Council has experienced ASB from the earlier iterations of BT link panels within Camden. Residents and members have reported a rise in anti-social behaviour and crime as a direct result of these kiosks being installed'*. While this may be the case, the existing Inlink units were installed prior to the publication of the Anti-Social Behaviour Management Plan and the strategy exists to tackle all issues that are directly attributable to the Street Hub.

In terms of the specific comments made by the Metropolitan Police in their response, we unreservedly acknowledge their concern that Tottenham Court Road is a magnet for crime and anti-social behaviour. There are many reasons for this, but this is not the forum to outline or debate these in detail. It is clear that there is a problem with the existing kiosks, whose condition has deteriorated over the course of their lifetime, not least because of their inadequate upkeep and BT has committed to resolve this with a regular programme of maintenance. It is not unfair to say that the existing kiosks, by virtue of their condition alone, help to create a perception of fear that creates the environment for crime to thrive. There is the 'broken window theory' of crime prevention, which is a criminological theory that states that visible signs of crime, anti-social behaviour, and civil disorder create an urban environment that encourages further crime and disorder, including serious crimes.

Whilst this is a complex theory that encompasses a very broad range of issues, the core value is that if you fix the window then the perception of fear of crime reduces and the immediate area improves. Therefore, the removal of the existing kiosks and the replacement with the Street Hub with its tangible benefits, its positive impact on the public realm will contribute to the reduction in the fear of crime.

The Officers Report outlines Metropolitan Police concerns and states *'Due to the openness of the kiosk any mobile phones on display at this location (either in hand or on charge) will be vulnerable to the opportunist phone snatch. With the new locations mostly closer to the carriageway this form of crime can be carried out by moped or bicycle'*. As you will note from the proposed site plan, the proposed Street Hub is 1m from the kerbside which is more than the commercial kiosk further down the road and adjacent trees. The proposed Street Hub should therefore be treated as not posing a greater risk and the risk of crime associated with the Street Hub to be low in terms of the layout when compared with the existing street furniture.

The Metropolitan Police's observation notes *'This proposed kiosk is located outside a bank. People would be distracted using the cash machine and the concealment opportunities this kiosk provides means that Risk of theft at this location is higher'*. However, we would stress that this issue was considered and addressed as part of the site selection process, with care being taken to site to the proposed unit appropriately. On this basis, it should be noted that proposal is over 5m from the ATM where we would assume the greatest risk of a crime taking place would occur. Given that the Metropolitan Police have issued a broad objection to all of the proposals, we would respectfully consider that their assessment is an overstatement. To support this position, we would refer to the planning application LPA ref 2018/0519/A (Appendix N) for a similar type kiosk that is also located outside a bank that is considerably closer to the ATM and the front doors. We would surmise that unless there was substantive evidence to suggest that similar developments have caused an increase in crime then this would be presented, otherwise we would expect this to be treated as an assumption and not based on factual evidence.

The proposal clearly represents a reduction in street clutter, as noted above, hence the Street Hub proposal provides the opportunity to improve the public realm and contribute to the reduction in perception and fear of crime.

***"4. In absence of a legal agreement to secure the removal of existing and others in the vicinity and a maintenance plan for the proposed kiosk, the proposal would be detrimental to the quality of the public realm, and detract from the character and appearance of the streetscene, contrary to policies D1 (Design), D2 (Heritage), 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".***

We would refer to the General Permitted Development Order 2015 Part 16 (A.2) (2) - *Class A(a) and Class A(c) development is permitted subject to the condition that any apparatus or structure provided in accordance with that permission is removed from the land, building or structure on which it is situated and such land, building or structure is restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer'*. Therefore, there is no requirement for a legal agreement for the removal of the existing kiosks, as these will be replaced as part of the proposal in order to comply with the GPDO.

The reality is that the kiosks are still required in order to comply with the USO and the terms of BTs license, so they aren't going to be removed, unless they are associated with a BT Street Hub that is approved and implemented.

With regard to the point raised in the reason for refusal regarding the lack of a maintenance plan, we would refer to the Management, maintenance and operational strategy section of the BT Product Statement. For clarity, the maintenance strategy states *'The Street Hubs are visited every two weeks for cleaning, by hand and with pressure washers. The materials used make this process easy with defined materials and processes. Whilst cleaners are on-site, they check for damage and ensure the tablets and screens are working'*.

## Conclusion

In conclusion, the proposal will directly replace the existing telephone kiosks with a more aesthetically pleasing structure that will provide a multitude of positive features that will benefit the community and businesses locally and throughout the Borough.

The proposed Street Hub unit which will not appear out of context within this busy urban environment, nor will it represent a particularly dominant or overbearing feature within the street scene, given that it is directly the existing payphone kiosks. It represents a significant improvement to the fall-back position of the existing kiosks being retained in which the Street Hub is a form of development that is positively encouraged by the NPPF.

The Council and the Metropolitan Police have valid concerns regarding the existing kiosks and BT are seeking to assist with the removal while meeting their obligations under the terms of the USO. Whilst there are concerns regarding the Street Hub, this is based on the negative experience of the existing kiosks and not the very real benefits that the proposal will provide. The de-cluttering of the street scene, the installation of a sustainable modern facility and the services it will provide will all contribute to the goal of improving the public realm and reducing crime as a result.

Therefore, it is considered that there will be less than substantial harm to the character of the area and the significance of the nearby designated heritage assets, in which any such harm is outweighed against the public benefits of the proposal. Most notably the array of features it offers, as well as securing the appeal site's optimum viable use by replacing existing public call boxes. In this respect, it is concluded that full planning permission should be allowed.

## LPA Ref. – 2021/4375/A (Consent to Display Advertisements) - Appeal B

***"1. The proposed advertisement, by virtue of its location, scale, prominence, and method of illumination, would add visual clutter, detrimental to the amenity of the streetscene and adjacent conservation area, contrary to policies D1 (Design), D2 (Heritage) and D4 (Advertisements) of the Camden Local Plan 2017".***

To avoid repetition, we would refer to our response to the same reasons for refusal in Appeal A.

With regard to the lighting / illumination of the advertisement section of the proposed Street Hub, the proposed usage for the screens has been set in accordance with Transport for London's (TfL) policy document - Guidance for Digital Roadside Advertising and Proposed Best Practice (Appendix O). The TFL guide specifically relates to the proposal, whereas the IPL guidance does not and therefore should not be afforded the same material weight. In particular, the TFL guide states that *'Static digital advertising is likely to be acceptable in locations where static advertising exists or would be accepted.'*

As made abundantly clear within the original application documents, the proposed screens will display a series of static images, which will feature no moving elements or dynamic displays. The method of illumination and suggested speed of change between each advert will be in strict accordance with well-established parameters and professional guidance, that was included as part of the submission. It is argued therefore that these elements can reasonably be controlled via condition. Images 4, 5 and 6 below helps to visualise what the impact of digitally illuminated advertisements have on the area when appropriately situated and controlled if considered necessary.



Image 4 – Digital Advertisement



Image 5 – Digital Advertisement



Image 6 – Digital Advertisement

The appeal site is found on a well-lit, footpath alongside high street stores which have brightly lit shop frontages, which as we have highlighted is designated as Central London Frontage. Whilst they are not digitised, the existing kiosks have advertising and there is an important context in the area such as the Clear Channel and JC Decaux advertisements within a short distance from the appeal location that display illuminated advertisements. It is therefore considered that the illuminated screens would have a neutral impact on the character, appearance and setting of the townscape but most importantly on highway safety.



We would highlight the appeal decision APP/T5150/Z/18/3201678 (Appendix P) located at 47 – 51 High Street in Brent which was 35m from the Jubilee Clock (Grade II Listed Building). Whilst the development is in a district centre and not the city centre, the Inspectors comments are transferable to this Street Hub proposal. The Inspector states that *'Harlesden High Street is a pedestrian zone (except for local buses) and there is also a large amount of shop signage and other prominent window displays which help set the context for the area. As such, the advert would not appear wholly incongruous or intrusive in this context. While the illuminated advert would alter its appearance, the overall impact from wider views would be minimal'*.

With regard to the impact on Bloomsbury Conservation Area, we would consider that there is sufficient precedent for digital advertisements in the area that an additional feature of similar size and specification would have a minimal impact, so would not warrant the refusal of the application. However, the principal justification is the dominant commercial environment in central London that lends itself well to this type of advertising proposal.

We would also reiterate that the proposal, by virtue of the services and benefits provided conforms with paragraph 202 of the NPPF, D1 (Design), D2 (Heritage) and D4 (Advertisements) of the Camden Local Plan 2017 and Part 3 (Vision and objectives) of the Fitzrovia Area Action Plan 2014.

## **Conclusion**

In conclusion, as discussed the proposed Street Hub unit is a small-scale development which will not appear out of context within this busy urban environment. It represents a significant improvement to the fall-back position of the existing kiosks being retained in which the Street Hub is a form of development that is positively encouraged by the NPPF to harness improved digital connectivity and the usage of camouflaged existing features to provide cellular services. It is considered that there will be less than substantial harm to the public realm, in which any such harm is outweighed against the public benefits of the proposal most notably the array of features it offers as well as securing the appeal site's optimum viable use by replacing existing public call boxes.

Whilst it is accepted that the Council does not support this type of development on Tottenham Court Road, there has been no definitive evidence produced that supports the position that the proposal would cause harm to the highway and public safety. To that effect and given that neither TFL nor the Council Highways Department have objected to the proposal, the appeal for consent full planning consent and consent to display advertisements should be allowed.