

**Date: Tuesday, 16 August 2022**  
**Your Ref:** 2021/2110/P & 2021/3135/A  
**Our Ref:** 3290364 & 3290365

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The Planning Inspectorate  
 Temple Quay House  
 2 The Square  
 Bristol, BS1 6PN

Dear Sir/Madam,

**Town and Country Planning Acts 1990 (as amended)**

**Appeal by JCDecaux UK Limited**

**Site: Pavement outside No. 221 Camden High Street, NW1: PINs ref 3290364 & 3290365**

This presents the council's statement regarding the above appeals against the refusal of planning permission and advert consent dated 20<sup>th</sup> December 2021 (Ref: 2021/2110/P & 2021/3135/A) for; the *Installation of a new phone hub unit and Display of 1 x LCD illuminated digital advertisement panel to the new phone hub unit following removal of existing kiosk as part of wider proposals to replace Infocus telephone kiosks.*

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

**1.0 Summary**

1.1 The planning and advert appeals for 221 Camden High Street form 2 of 18 applications for new telephone kiosks with separate advertisement consent applications submitted by JCDecaux for 9 locations. All appeals are set out in the table below for information.

Addresses	Local Ref	PINS ref
148 Holborn	2021/2104/P & 2021/3166/A	3291828 & 3291826
29 Tottenham Court Road	2021/2105/P	3290309 & 3290310
81 Tottenham Court Road	2021/2103/P	3290304 & 3290306
191 Tottenham Court Road	2021/2111/P	3290323 & 3290325
221 Camden High Street	2021/2110/P&2021/3135/A	3290364 & 3290365
141 Euston Road	2021/2108/P & 2021/3117/A	3290320 & 3290322
371 Euston Road	2021/2101/P	3290298 & 3290302
Shaftesbury Avenue corner of Earlham Street	2021/2107/P & 2021/3140/A	3290317 & 3290319
71 High Holborn	2021/2106/P & 2021/3115/A	3290312 & 3290314

- 1.0 221 Camden High Street is adjacent to the Camden Town Conservation Area. The footway is relatively uncluttered, albeit there are trees, bins, phone box and lamp posts.
- 1.1 Pedestrian volumes are extremely high in this busy tourist location and as a result of Crossrail services becoming operational along with ongoing economic growth in Central London.
- 1.2 Pedestrian volumes are also forecast to increase significantly when High Speed 2 (HS2) services become operational. Existing footway space is a scarce resource and must be safeguarded for pedestrians both now and in the future to accommodate economic growth.
- 1.3 Planning permission and advert consent is sought for the installation of a kiosk following removal of the existing kiosk. The existing kiosk has a footprint of 1.47 metres x 1.26 metres and are 2.5 metres high. The proposed replacement kiosk would be located on the same location as the existing kiosk. The replacement kiosk would be 1.1 metres wide x 0.765 metres deep (includes 0.5 metres wide canopy above the telephone and associated touchscreen) and 2.4 metres high. The display screen would be 0.935 metres x 1.67 metres which would take up most of the kiosk's rear façade.
- 1.4 Permission was refused on following grounds:

1 The proposed telephone kiosk, by reason of its location and size, would add to visual clutter and detract from the character and appearance of the streetscene and setting of the adjacent conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

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

3 The proposed telephone kiosk, adding unnecessary street clutter, would create increased opportunities for crime in an area which already experiences issues with crime, therefore the proposal would be contrary to Policy C5 of the London Borough of Camden Local Plan 2017. 4 In absence of a legal agreement to secure the secure the removal of the existing kiosk and others in the vicinity and a maintenance plan would be detrimental to the quality of the public realm, and detract from the character and appearance of the conservation area, 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.

4 In absence of a legal agreement to secure the secure the removal of the existing kiosk and others in the vicinity and a maintenance plan would be

detrimental to the quality of the public realm, and detract from the character and appearance of the conservation area, 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.

Advertisement consent was refused on the following grounds:

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 setting of the adjacent listed buildings and conservation area, contrary policies D1 (Design), D2 (Heritage) and D4 (Advertisements) of the Camden Local Plan 2017.

1.5 At this appeal site, prior approval was also refused previously on 12<sup>th</sup> July 2019 under ref 2019/2698/P for the *Installation of 1 x replacement telephone kiosk on the pavement* see appendix 2. It was refused for the following reasons:

1 The proposed development, is not wholly for the purpose of the operator's electronic network and thereby falls outside the terms of Class 16, Part A of the General Permitted Development Order.

2 The proposed telecommunications kiosk, by reason of its siting, size and detailed design, would add to visual clutter and detract from the character and appearance of the street scene and the adjacent Bloomsbury and Hatton Garden Conservation Areas and detract from the setting of the adjacent Grade II listed building, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

3 The proposed telephone kiosk, 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 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.

4 The proposed telephone kiosk, 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 London Borough of Camden Local Plan 2017.

1.6 The Council's case for this current appeal is set out in detail in the attached Officer's Report and appendices 1-6 (see Appendix 3) and it will be relied on as the principal Statement of Case. The Officer's report details the application site and surroundings,

the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

- 1.7 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 applications, the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The full text of the relevant policies was sent with the questionnaire documents.

The council's policies are recent and up to date. There is no conflict between the council's policies and the NPPF in relation to these appeals.

The council's policies seek to ensure that new development is acceptable in terms of design and visual amenity both within and outside conservation areas, street clutter, pedestrian flow and highway safety and crime prevention. The council's relevant policies are set out below.

- 2.2 The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on the 3 July 2017 and has replaced the Local Development Framework Core Strategy and Camden Development Policies documents as the basis for planning decisions and future development in the borough. The relevant Local Plan policies as they relate to the reasons for refusal are:

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

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

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

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

- Camden Streetscape Design Manual
- Digital Roadside Advertising and Proposed Best Practice (commissioned by Transport for London) March 2013
- Design of an accessible and inclusive built environment. External environment - code of practice (BS8300-1:2018 and BS-2:2018)
- Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013

### **3.0 Comments on the Appellant's Grounds of Appeal**

3.1 The appellant's grounds of appeal for all the 9 sites appear to be contained within two documents by JCDecaux dated 7<sup>th</sup> January 2022 and 2<sup>nd</sup> February 2022. The grounds of appeal appear to be generic. They can be summarised as follows:

1. Character, Appearance and Visual Clutter
2. Location, Size and Unit Design
3. Footpath Widths and Pedestrian Flow
4. Crime Prevention and Maintenance

#### **4.0 1. Character, Appearance and Visual Clutter**

4.1 The appellant states that the proposed kiosk is replacing an existing kiosk and it is not adding to the amount of furniture on the street and not creating clutter. The replacement structure would also be smaller with additional public benefits.

4.2 The appellant asserts that despite some of appeal sites being in a conservation area, illumination is a part of the area's character *'it is nevertheless a vibrant part of that area and it is not unreasonable to assume that illuminated displays, within this setting, are not by and of themselves harmful to the character and appearance of the area.'*

4.3 The appellants refers to an example along Tottenham Court Road which is not in a conservation area where similar structures were considered acceptable. The appellant states *'It is submitted that it is not credible or accepted that the appeal proposals are inappropriate to conservation areas where those locations can be characterized as vibrant busy and active retail streets'*.

#### **5.0 Response to ground of appeal 1**

5.1 Policy D1 aims to ensure the highest design standards for developments. Policy D1 states that the Council will require all developments to be of the highest standard of design and to respect the character, setting, form and scale of neighbouring buildings, its contribution to the public realm, and its impact on wider views and vistas.

- 5.2 Policy D2 (Heritage) of the Camden Local Plan states that the Council will require development to preserve and where possible enhance the character and appearance of an area.
- 5.3 The Council disagrees with the appellant's assertion that the replacement structure is not adding to clutter on the street. Although the replacement structure is smaller than the existing structure, it is still visually dominant and an incongruous addition. It would still add to the visual clutter and would reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm. This concern was previously highlighted by an inspector in the Tottenham Court Road appeal cases (REF APP/X5210/W/18/3195370) where in 13 cases the inspector agreed with the Council's concerns about the addition of street clutter whether the sites were or were not located inside a conservation area or affecting the setting of a listed building. Furthermore, in 11 of the cases the inspector agreed that the impact on pedestrian movement was unacceptable.
- 5.4 Additionally, the Planning Inspector concluded in an appeal decision to provide advertising to a kiosk outside 297 Euston Road, London NW1 3AQ (APP/X5210/Z/18/3204104) that, *'Due to its bulk and siting, the kiosk erodes the existing openness beyond the row of trees, and due to its depth and width, it disrupts the largely unrestricted routes of pavement users by the row of trees (see appendix 4).* Reinforcing the Council's concern that kiosks add clutter to the footpaths removing useable pedestrian space.
- 5.5 The appellant has failed to address the cumulative impact from the proposals to have 2 kiosks, within 100m of the site, which won't be removed as a part of this proposal.
- 5.6 The Council acknowledges that the proposed structures would include facilities such as defibrillator, public messaging and CCTV. Whilst weight is given to some of the benefits, for the refusal reasons they do not outweigh the harm caused to the character and appearance of the streetscene, public safety, the loss of footway and the impact on the public realm is not justified.
- 5.7 The Council disagrees with the appellant's view that illumination is a part of any area and thus doesn't cause harm to conservation areas, nearby conservation areas or nearby listed buildings. The proposed structures are an obtrusive piece of street furniture, detracting from the streetscene by virtue of its incongruous design; the powder coated steel frame and toughened glass introducing an intrusive, bulky addition to the street. This concern was also highlighted by an inspector under a recent appeal REF: APP/X5210/W/20/3254037 and 3252962 (see appendix 5). This kiosk was smaller in scale but similar design approach;

*The visual impact of the kiosk would be increased by the large illuminated advertising panel, which would be a dominating feature on the structure. The panel, close to the kerbline, would be a prominent standalone illuminated feature. The panel would be*

*unrelated to the services provided by the adjacent commercial units and would appear prominent in views along the street both during the day and in hours of darkness.*

- 5.8 The appellant has made no effort to respond to the vast appeal history (see site history section of the officer's report) for these types of digital structures where the Council's concerns about impact of digital advertising and the cumulative impact was support and emphasised by the Planning Inspectorate. The Appellant has provided no evidence of why advertisement panels either in principle or of this scale are necessary.
- 5.9 The 2018 decisions which the Appellant refers to relate to freestanding advertisement panels, following the replacement of existing advertisement panels within Tottenham Court Road. These decisions were made prior to the more recent appeal decisions (REF: PP/X5210/W/20/3253878 and 3253540) on 6 October 2020 outside 216-217 Tottenham Court Road. The Inspector took the view 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 kerblin, 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'.

## **6.0 2. Location, Size and Unit Design**

- 6.1 The appellants view is that the replacement kiosk represents an improvement on the pre-existing position. Additionally the Appellant's argue the size and design of the structure is appropriate for the roadside locations and wouldn't appear as an intrusive feature.
- 6.2 The appellants view is that the officer's conclusions in the 2018 applications along Tottenham Court Road should be applied to these appeal proposals and that the structures are *'beneficial, sympathetic and acceptable addition to the street'*.
- 6.3 The appellant disagrees with the officer's assessment that the method of illumination would be harmful to the amenity of the street. The appellant states these LCD screens are displayed along Camden streets as free standing structures or are affixed to street furniture. The luminance level would be tightly controlled and would be surrounded by other brightly lit shopfronts. Additionally, the appellant states the illumination level can be conditioned.

## **7.0 Response to ground of appeal 2**

- 7.1 As stated above, Policy D1 states that the Council will require all developments to be of the highest standard of design and to respect the character, setting, form and scale of neighbouring buildings, its contribution to the public realm, and its impact on wider views and vistas.
- 7.2 Policy D2 (Heritage) of the Camden Local Plan states that the Council will require development to preserve and where possible enhance the character and appearance of an area.

- 7.3 Contrary to the appellant's view, the proposed structure is considered to be a very poor design in terms of size, scale, massing, materials and accessibility, and is not an appropriate or acceptable addition in this location. The appellant has failed to respond to the vast appeal history where design and prominence of advertisements was continually raised. Instead we see a further repeat of a large structure dominated by a large digital advertisement. The kiosk would appear as an obtrusive piece of street furniture, detracting from the streetscene by virtue of its incongruous design; the powder coated steel frame and toughened glass introducing an intrusive, bulky addition to the street.
- 7.4 Regarding the location of the kiosk, this will be discussed in detail in section 8.
- 7.5 As outlined in 5.9 above, the 2018 decisions which the Appellant refers to relate to freestanding advertisement panels, following the replacement of existing advertisement panels. These decisions were located within one street in Camden. In addition, since these decisions, the impact of digital advertisements on Camden's streets and the need to protect pavement space are key issues which have been supported at appeal.
- 7.6 Camden Planning Guidance for CPG Amenity advises that artificial lighting can be damaging to the environment and result in visual nuisance by having a detrimental impact on the quality of life of neighbouring residents, that nuisance can occur due to 'light spillage' and glare which can also significantly change the character of the locality. As the advertisement is not located at a typical shop fascia level and would be internally illuminated, it would appear visually obtrusive on the streetscene.
- 7.7 The Council acknowledge that the illumination can be conditioned, however despite this, the provision of a digital screen in this location would add visual clutter to the streetscene, which is located nearby Grade II listed buildings and conservation areas. By reason of its siting, scale, design and illumination, the proposed advertisement would therefore form an incongruous addition to this part of the streetscene, serving to harm the character and appearance of the area and nearby conservation areas. It is therefore considered that the proposed advertisement would have an adverse effect upon the visual amenity of the area and the setting of the nearby Grade II listed building.

### **8.0 3. Footpath Widths and Pedestrian Flow**

- 8.1 The appellant states *'the suggestion therefore that a smaller unit with a far narrower footprint would somehow reduce the amount of available footpath is clearly incorrect'*. Furthermore the appellant states as they replacing an existing Kiosk, it would not result in clutter.
- 8.2 The appellant asserts that the footpaths are sufficient to accommodate the unit. Furthermore the size, position and orientation of the kiosks would not impact pedestrians or result in unacceptable narrowing of the footpath.



## 9.0 Response to ground of appeal 3

- 9.1 The proposed Kiosk is replacing an existing kiosk, despite its size it still impacts on the amount of useable footpath in terms of its size and use, thus adding clutter to the streetscene. As outlined in the report this current footway is already cluttered and under pressure (see photo below). Replacing the Kiosk will still result in clutter to the streetscene.



*Appeal site location-Current footway already under pressure from existing bulky street furniture and high foot- traffic*

- 9.0 Regarding the location, the proposed telephone kiosk would be 1.1 wide. The plan submitted indicates the footway width to be 6.9m and with the proposed telephone kiosk the remaining footway would be approximately 5.8 metres. Despite this exceeding the recommended minimum width for high footfall locations( of 3.3m for a footway with high pedestrian flows (see Appendix B of Transport for London guidance document titled 'Pedestrian Comfort Guidance for London')), the location of the proposed phone kiosk still creates an obstruction due to the bulk of the development. Therefore this is considered to be insufficient for a footway and the proposal would therefore impede/obstruct pedestrian movement and sightlines along the footway while constituting an unnecessary hazard to pedestrians, especially pedestrians with visual impairments.

- 9.1 Transports colleagues were consulted for the application and state the proposed telephone kiosk being located outside of the established street furniture zone, would encroach significantly into the effective footway width available for pedestrian movement (i.e. the pedestrian desire line), as per the existing situation. The proposed telephone kiosk would therefore obscure sightlines along the footway significantly while also constituting a significant impediment/obstruction to pedestrian movement along the pedestrian desire line. This would be a particular problem for pedestrians with visual impairments (e.g. blind and partially sighted) who rely on clear and unobstructed pedestrian routes. The proposed telephone kiosk would therefore constitute an unnecessary obstruction/impediment and a hazard for blind or partially-sighted people. As such, the introduction of a kiosk is considered to have significant pedestrian and road safety implications in this location contrary to Policies A1 and T1, as well as, TfL guidance.
- 9.2 Additionally, the proposed telephone kiosk, by being in a very high footfall area, would have a detrimental impact on the walking experience due to a significant reduction in the level of service, as per the existing situation. It would lead to pedestrian congestion which could result in dangerous situations such as pedestrians walking in the carriageway and colliding with each other or vehicular traffic, or indeed with the telephone kiosk. The proposal should be refused on this basis.
- 9.3 As seen in the photo, the footpath is not sufficient to accommodate the kiosk, and in this location there is an existing kiosk within 50m from the application site and another three within 150m in close proximity to the application site. Therefore the Council disagrees and considers that the Kiosk impact on the public realm is not justified.

#### **10.0 4. Crime Prevention & Maintenance**

- 10.1 The appellant asserts that the kiosk would not result in an increase of crime, that this the misuse of a phonecall and unrestricted internet is experienced throughout all major cities in the UK and that the structure would become a tool for crime prevention and public benefit. The appellant states the structures are used by the public and in particular the defibrillators have been used and activated in other cities across the UK.
- 10.2 Furthermore the appellant confirms that *'Each Hub includes a 24-hour fault line for the public to notify any issue, including vandalism, and each unit is visited weekly for routine maintenance checks and cleaning'* and that the *'integral screen is sold to advertisers to pay for the equipment and facilities it provides who simply will not purchase the space if the unit is in poor condition'*.

#### **11.0 Response to ground of appeal 4**

- 11.1 As set out in Policy C5 of the Camden Local Plan, the Council requires development to incorporate appropriate design, layout and access measures to help reduce opportunities for crime. As such, careful consideration needs to be given to the design and location of any street furniture or equipment in order to ensure that they do not obscure public views or create spaces that would encourage anti-social behaviour (ASB). Camden Planning Guidance document CPG1 (Design) in Paragraph 9.27

states with regard to telephone kiosks in particular that, *'The size of the box or other supporting structure that the phone box is in should be minimised to limit its impact on the streetscene and to decrease the opportunities for crime and anti-social behaviour.'*

- 11.2 With regards to crime and crime prevention, the appellants comment that misuse of phone calls and unrestricted internet happens throughout cities in the UK, this supports the Council's concerns with how these structures are used. A number of issues have been raised by the Metropolitan Police Crime Prevention Design Advisor. In particular it has been noted that existing telephone kiosks within the London Borough of Camden have become 'crime generators' and a focal point for anti-social behaviour (ASB). In relation to the locations of the kiosks around Camden there is a common theme among the crime statistics. All these areas have a major issue with street crime and in particular antisocial behaviour, pickpocketing and theft from person. These are areas of significant footfall with both commuters, local residents and numerous tourists. The design of these kiosks does not reduce the risk of these types of crime from occurring. Due to the openness of the kiosk any mobile phones on display at this location (either in hand or on charge) will be vulnerable to the opportunist phone snatch. With the new locations mostly closer to the carriageway this form of crime can be carried out by moped or bicycle. The large façade where the advertising screen is proposed will act as an opportunity for concealment and increase the risk of theft and assault. The basic design flaws with the structure to accommodate the large digital screen also creates an opportunity for crime, in addition to the ASB associated with the use of the kiosks themselves. Whilst these issues have been raised previously, and supported at appeal the Appellant has failed to make any meaningful changes to the structure to address them.
- 11.3 The Metropolitan Police Crime Prevention Design Advisor have considerable experience of the ASB associated with the older traditional kiosks and this new generation of kiosk. In an Appeal decision ref: APP/X5210/W/20/3253878 and 3253540 – see appendix 6) for a kiosk outside nos. 216-217 Tottenham Court Road, the Inspector noted 'the appellants' proposed maintenance regime would be likely to reduce the effects of such ASB'. However, the form of the structure provides a degree of screening for such behaviour and would be likely to encourage it. In the same appeal decision the Inspector notes ...'the substantial form of the kiosk, with screening panels would reduce natural surveillance and so use of the kiosk to screen illegal activities such as drug dealing and use could increase, notwithstanding the maintenance regime proposed. Bringing these matters together I find that the proposed kiosk would, overall, have a harmful effect on pedestrian movement and public safety'. This would increase opportunities for crime in an area which already experiences issues with crime, therefore the proposal would be contrary to Policy C5 (Safety and security) and CPG Design
- 11.4 Therefore, as stated in paragraph 5.6 despite the limited benefits of the kiosks, these do not outweigh the harm caused to the character and appearance of the streetscene, public safety, the loss of footway and the impact on the public realm is not justified.
- 11.5 The appellant states the kiosks would be visited one a week and cleaned, however given the existing condition of kiosks within the Borough, the Council would need a

management plan (see below) to secure this. Additionally, the Council disagrees with the appellant's assertion that an advertisers would not purchase the kiosk if it was in bad condition, as despite the condition of the kiosk an advert can still be displayed. The Council's experience with existing older kiosks which are in poor condition (See image below of existing kiosk), are that the advertisements remain in place and change on a regular basis despite the condition of the kiosk.



*Existing Kiosk at site with fly tipping, and littering.*

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

## **12.0 Legal Agreement**

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

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

Obligations must be:

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

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

The council will update the inspector on progress on the legal agreement at final comments stage.

### **13. Recent appeal decisions**

13.1 The Officer's report and appendices 2-5 sets out the significant number of appeal decisions in relation to the principle of phone kiosks with digital advertisements replacing older stock which is relevant to this appeal. The Appellant has failed to address these key issues either in the design of their structure or the appellant statement. The Council has provided Appeal Decisions where the Planning Inspectorate has supported the Council's planning policies and guidance in relation to the following issues:

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

### **13.0 Conclusion**

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

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

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

Yours sincerely,

**Jennifer Dawson**

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

## **Appendix 1 – Suggested conditions**

### Planning permission

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission. Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the following approved plans;

Site Maps and Visuals (A01597); Cover letter dated 30th April 2021; Pre Application response by Camden Council dated 27/07/2020; List of existing and proposed kiosks; existing site locations; proposed site locations; Communication Hub Management Plan dated 1st October 2020 ; Camden Small format Digital Advertising Specification; Sustainability aims and achievements; suggested conditions and reasons and Pavement Remediation

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

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

Reason: In order to minimize the impact on the appearance of the streetscene and the highway in accordance with the requirements of policy CS11 and CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies DP16, DP17, DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies and D1, D2 and T3 of the Draft Camden Local Plan 2016.

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

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24

and DP25 of the London Borough of Camden Local Development Framework Development Policies and policies D1 and D2 of the Draft Camden Local Plan 2016.

### Advertisement consent

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

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

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition. Reason: - As required by regulation 2(1) and Schedule 2 of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

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

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

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

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

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

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

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

REASON: To ensure that the advertisement does not harm the character and appearance of the streetscene and does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies CS5, CS14 and CS17 of the London Borough of Camden Local Development Framework Core Strategy and policies DP21, DP24, and DP26 of the London Borough of Camden Local Development Framework Development Policies, policies A1, D1, D4 and T1 of the Camden Local Plan

Submission Draft 2016 and Transport for London Guidance for Digital Roadside Advertising 2013.

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

REASON: To ensure that the advertisement does not harm the character and appearance of the streetscene and does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies CS5, CS14 and CS17 of the London Borough of Camden Local Development Framework Core Strategy and policies DP21, DP24, and DP26 of the London Borough of Camden Local Development Framework Development Policies, policies A1, D1, D4 and T1 of the Camden Local Plan Submission Draft 2016 and Transport for London Guidance for Digital Roadside Advertising 2013.

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

REASON: To ensure that the advertisement does not harm the character and appearance of the streetscene and does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies CS5, CS14 and CS17 of the London Borough of Camden Local Development Framework Core Strategy and policies DP21, DP24, and DP26 of the London Borough of Camden Local Development Framework Development Policies, policies A1, D1, D4 and T1 of the Camden Local Plan Submission Draft 2016 and Transport for London Guidance for Digital Roadside Advertising 2013.

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

REASON: To ensure that the advertisement does not harm the character and appearance of the streetscene and does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies CS5, CS14 and CS17 of the London Borough of Camden Local Development Framework Core Strategy and policies DP21, DP24, and DP26 of the London Borough of Camden Local Development Framework Development Policies, policies A1, D1, D4 and T1 of the Camden Local Plan Submission Draft 2016 and Transport for London Guidance for Digital Roadside Advertising 2013.

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

REASON: To ensure that the advertisement does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies CS5, CS14 and CS17 of the London Borough of Camden Local Development Framework Core Strategy and policies DP21 and DP26 of the London Borough of Camden Local Development Framework Development Policies, policies A1, D4 and T1 of the Camden Local Plan Submission Draft 2016 and Transport for London Guidance for Digital Roadside Advertising 2013.



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

REASON: To ensure that the advertisement does not create a distraction to pedestrian or vehicular traffic and therefore cause a hazard to highway safety. In accordance with the requirements of policies CS5, CS14 and CS17 of the London Borough of Camden Local Development Framework Core Strategy and policies DP21 and DP26 of the London Borough of Camden Local Development Framework Development Policies, policies A1, D4 and T1 of the Camden Local Plan Submission Draft 2016 and Transport for London Guidance for Digital Roadside Advertising 2013.

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

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies and policies and policies A1 and A4 of the emerging Camden Local Plan 2016.