

Date: 21/09/2022

Your Ref: APP/X5210/W/22/3297273 & 3297276

Our Ref: 2021/3912/P & 2021/4354/A

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Dear Sir/Madam,

**Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Town and Country Planning Act 1990**

**Appeals by BT Telecommunications Plc**

**Site Address: Pavement outside 39 Tottenham Court Road London W1T 2AR**

I write in connection with the above appeals against the refusal of planning permission (Ref: 2021/3912/P) and advertisement consent (Ref. 2021/4354/A) for the ***Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosks and Display of 1 x LCD illuminated digital advertisement panel to new phone hub unit.***

**1.0 Summary**

1.1 The planning and advertisement consent appeals for **39 Tottenham Court Road** form 2 of 18 applications for new telephone kiosks with associated advertisement consent applications submitted by BT Telecommunications for 9 separate locations. All appeals are set out in the table below for ease of reference:

1.2

Application number	PINS ref	Addresses
2021/3910/P & 2021/4348/A	3297263 & 3297264	19-21 Tottenham Court Road
2021/3911/P & 2021/4353/A	3297265 & 3297266	30 Tottenham Court Road
2021/3912/P & 2021/4354/A	3297273 & 3297276	39 Tottenham Court Road
2021/3913/P & 2021/4361/A	3297333 & 3297334	220-224 Tottenham Court Road
2021/3914/P & 2021/4371/A	3297336 & 3297337	Goodge Street Tube Station
2021/3915/P & 2021/4375/A	3297772 & 3297773	88 Tottenham Court Road
2021/3916/P & 2021/4376/A	3297774 & 3297775	164-167 Tottenham Court Road
2021/3917/P & 2021/4377/A	3297776 & 3297777	155 Tottenham Court Road

2021/3918/P & 2021/4378/A	3297779 & 3297780	132 Tottenham Court Road
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- 1.3 The 18 applications (9 individual sites) were submitted in which the proposed development seeks the overall introduction of 9 new, replacement kiosks (following the removal of the 9 Infocus older designed kiosks within the London Borough of Camden (a proposed net reduction of 9 kiosks in total).
- 1.4 There are currently 33 kiosks within Tottenham Court, as shown on the plan below. Various operators has a number of kiosks within the street, of which all are in close proximity of each other (below left). BT have 16 kiosks which will be replaced with install 9 new 'BT Hub' kiosks on TCR and one on Euston Road.
- 1.5 As such, were planning permission and advertisement consent to be approved, the council would recommend conditions to be attached and a legal agreement would be required to ensure that all old kiosks were removed in a timely fashion and to include other possible management controls. The Appellant has not indicated that they are willing to enter into s106 legal agreement in regards to the planning obligations set out in the delegated report and in this statement. The council are currently still seeking to agree this with the appellant (without prejudice to the outcome of the appeal) and will update the Inspector at the final comments stage which are due 03/10/2022 (see Appendix A for list of suggested conditions)
- 1.6 In regard to the current set of appeals, and to assist the Inspectorate, the Council will submit 9 separate statements, each one addressing the two appeals in relation to the individual 9 sites. This current statement refers to the two appeals at **39 Tottenham Court Road**.

## 2.0 Kiosk and advertisement screen details

- 2.1 The proposal is to remove the existing kiosks which each measures 0.9 metres wide and 2.1 metres high. The proposed kiosk would 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, which would take up most of the kiosk's façade. The screen would be powered using 100% renewable carbon-free energy and would emit a luminance level of 600 cd/m2 during hours of darkness.

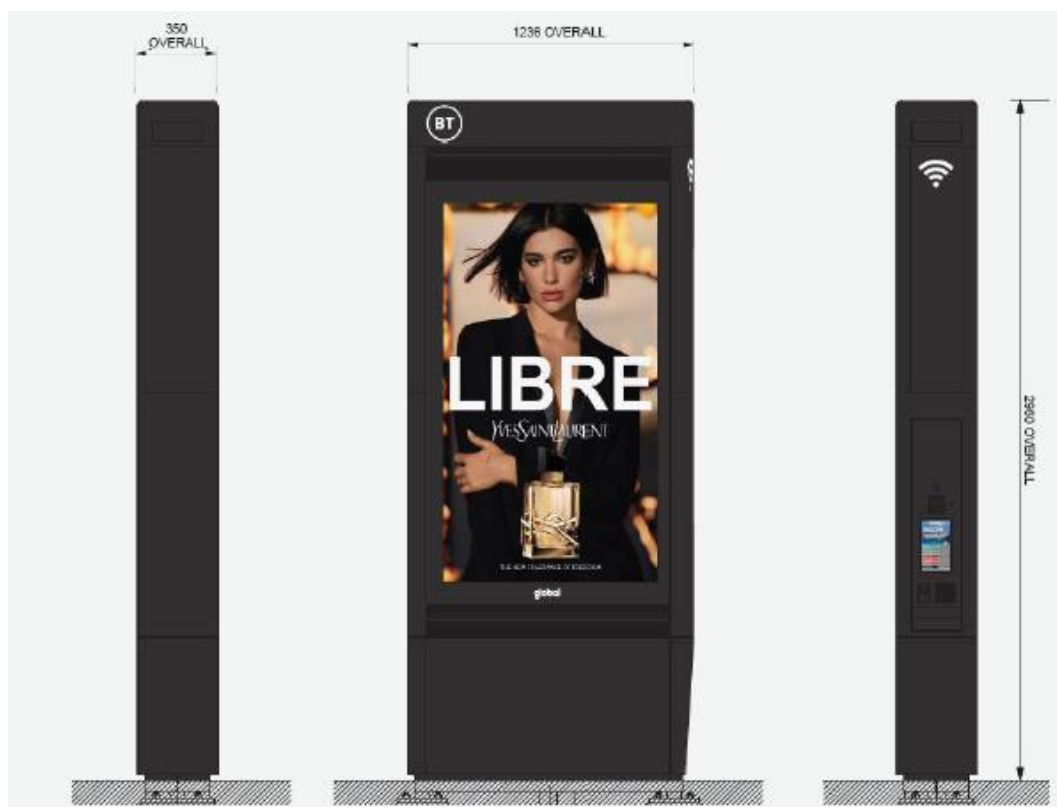


Image 1 - proposed kiosk design subject of this appeal

- 2.2 The Council notes that the proposed units are larger than those refused in various locations in Camden in 2020 (see Appendix B), and subsequently dismissed on appeal, which measured 1.096m (W) x 2.499m (H) x 0.762m (L), and with a display area of 1.53sqm.

### 3.0 The appeal site

- 3.1 The appeal site comprises of an area of the footway adjacent to **39 Tottenham Court Road** (A400) on the south western side of the road which forms part of the strategic road network (SRN). The site is located near Tottenham Court Road and Goodge Street Underground stations within the Central London Area and is part of Transport for London's (TfL's) Road Network (TLRN). Consequently, this is a busy road for both vehicular and pedestrian traffic.
- 3.2 The proposed new kiosk would replace an existing kiosk. The pavement at the appeal site is approximately 14 metres in width. Existing along the same side of the pavement and in close proximity towards are: 6 existing telephone kiosks (1 kiosk to be replaced), all located within a small section of the street, on the same side of the road to the south, litter bins, trees, street signs, a lamppost and a cabinet.
- 3.3 The appeal site is located in the Fitzrovia East Neighbourhood, Fitzrovia Action and Charlotte Street Community Association Areas, and is not located within a conservation area, nor is it positioned adjacent to any listed buildings.
- 3.4 Planning permission was refused on 3<sup>rd</sup> March 2022 (a copy of the decision notice was sent with the questionnaire and is attached at Appendix C & D) for the installation of a new phone hub unit on the pavement following removal of existing kiosk as part of wider proposals to

replace the existing stock of Infocus telephone kiosks. It was refused for the following reasons:

- 1. The proposed telephone kiosk, by reason of its location, size and detailed design, would add to visual clutter and detract from the character and appearance of the streetscene and Fitzrovia East Neighbourhood Area, contrary to Policy D1 (Design) of the London Borough of Camden Local Plan 2017 and Part 3 (Vision and objectives) of the 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 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) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.*
- 3. The proposed telephone kiosk, by reason of its scale, location and design would add unnecessary street clutter which would increase opportunities for crime in an area which already experiences issues with crime, therefore the proposal would be contrary to Policy C5 (Safety and security) of the London Borough of Camden Local Plan 2017.*
- 4. In absence of a legal agreement to secure the removal of the existing kiosks and an agreed 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), G1 (Delivery and location of growth), A1 (Managing the impact of development) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.*

3.5 Advertisement consent was refused on 3<sup>rd</sup> March 2022 (a copy of the decision notice was sent with the questionnaire) for the display of LCD advertisement display with static images on the side of new phone hub unit located on the pavement. It was refused for the following reasons:

- 1. The proposed advertisement, by virtue of its location, scale, prominence and method of illumination, would add visual clutter and contribute to an over proliferation of illuminated signage, detrimental to the amenity of the streetscene and Fitzrovia East Neighbourhood Area, contrary to Policies D1 (Design) and D4 (Advertisements) of the Camden Local Plan 2017 and Part 3 (Vision and objectives) of the Fitzrovia Area Action Plan 2014.*
- 2. The proposed advertisement, by virtue of its location, scale, prominence and method of illumination, would in combination with an existing freestanding digital display panel, introduce a distraction to traffic and pedestrians, causing harm to highway and public safety, contrary to Transport for London guidance, and to Policies A1 (Managing the Impact of Development), D4 (Advertisements) and T1 (Prioritising walking, cycling and public transport) of the Camden Local Plan 2017.*

3.6 The Council's case is set out in detail in the Officer's Report and it will be relied on as the principal Statement of Case. The report details the application site and surroundings, the site history and an assessment of the proposal.

3.7 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.

#### **4.0 Status of Policies and Guidance**

4.1 In determining the above mentioned application, the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The full text of the relevant policies was sent with the questionnaire documents.

4.2 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
- D4 Advertisements
- G1 Delivery and location of growth
- T1 Prioritising walking, cycling and public transport

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

- CPG Design 2021- chapters 2 (Design excellence) 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 (General guidance and advertising on street furniture); and 1.34 to 1.38 (Digital advertisements)
- CPG Amenity 2021 - chapter 4 (Artificial light)
- Camden Streetscape Design Manual
- Fitzrovia Area Action Plan - Part 3: Vision and objectives (adopted March 2014)
- Design of an accessible and inclusive built environment: External environment - code of practice (2018)

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

- National Planning Policy Framework (2021)
- London Plan (2021)

- TfL's Pedestrian Comfort Guidance for London (2010)
- Digital Roadside Advertising and Proposed Best Practice (commissioned by Transport for London) March 2013

## 5.0 Comments on the Appellant's Grounds of Appeal

5.1 The appellant's grounds of appeal are summarised as follows:

**6.0 *'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 nearby 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'***

6.1 The Appellant argues that the proposed kiosk is a modern form of development and provides immediate and future benefits to the area. The appellant acknowledges the proposed structure would provide a degree of harm, however the positives would outweigh the any harm caused.

6.2 The Appellant states that the character of the street is bright and vibrant so the impact on the nearby conservation areas and the listed buildings is minimal. Regarding clutter the appellant states that the kiosk will replace two existing kiosk which occupy a larger footprint and therefore will reduce clutter along the footway.

6.3 The appellant acknowledges the Council concerns that there is existing kiosks within close proximity to the appeal site that belong to different vendors that won't be removed as a part of the proposal. However the appellant states that 2 kiosk will be removed as a part of this proposal improving the streetscene.

6.4 The appellant refers to an appeal decision cited by the council in para 3.4 in the Officer's Report and states that this appeal (which was dismissed) didn't require any street furniture to be removed, reinforcing that this proposal is improving the streetscene.

## 7.0 Response to ground of appeal 1

7.1 Policy D1 (Design) of the Camden Local Plan 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 The Fitzrovia Area Action Plan (Part 3: Vision and objectives) promotes the creation of high quality physical environments in this locality through, *'enhancing the interaction between streets and the ground floors of buildings by removing visual clutter and encouraging high quality design'*. Within the main shopping streets it seeks that *'The pavement should be widened and clutter removed to make crossing the heart of Fitzrovia easier'*. It states that the public realm on Tottenham Court Road should seek to achieve the following:

- continuous pavement on both sides of the road with generous width providing space for pedestrians,
- raised pedestrian crossovers across side streets, and

- a de-cluttered environment

- 7.3 As an adopted Area Action Plan, the aims and objectives of Fitzrovia Area Action Plan are closely associated with the Camden Local Plan and have equal weight to Local Plan policies.
- 7.4 Section 12 (Achieving well-designed places) of the National Planning Policy Framework (NPPF) recognises the importance of design in managing and improving spaces, including the quality of place. The design of all built form, including street furniture, must be sustainable, functional, visually attractive, safe, inclusive and accessible, encourage innovation, be sympathetic to local character, and promote health and well-being.
- 7.5 CPG Adverts states that *'free-standing signs and signs on street furniture will only be accepted where they would not create or contribute to visual and physical clutter or hinder movement along the pavement or pedestrian footway'*.
- 7.6 Local Plan Policy D4 (Advertisements) confirms that the *'Council will resist advertisements where they contribute to or constitute clutter or an unsightly proliferation of signage in the area.'*
- 7.7 The Council disagrees with the Appellant's assertion that the proposed benefit would outweigh the harm caused by the proposed replacement structures. There is no evidence before the Inspector that these facilities can only be provided on a kiosk of the proposed scale and with the inclusion of a large digital panel. It is also noted more generally, that as a result of the ongoing Covid-19 outbreak, many facilities such as public wayfinding facilities have been switched off and are unlikely to be used in the same way, so limiting the likely usage and any potential benefit.
- 7.8 The Inspector's is respectfully requested to also note at this point that the proposed kiosk would be larger than those refused in various locations in Camden in 2020 (see Appendix B and subsequently dismissed on appeal, which measured 1.096m (W) x 2.499m (H) x 0.762m (L), and with a display area of 1.53sqm.
- 7.9 In a recent appeal decision in Camden (REF: APP/X5210/W/20/3254037 and 3252962 – see Appendix E) in relation to a phone kiosk of a marginal smaller scale, but with a similar design approach, the Planning Inspector noted in Paragraph 21 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 kerb line, 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'*.
- 7.10 The Council strongly disagrees with the appellant's assertion that street is characterised as being bright and vibrant so the impact of the proposed kiosk is minimal. Contrary to the Appellant's view, the site character and context is not considered by the Council to be suitable for the siting of the proposed new, replacement kiosk. The site is already significantly cluttered. 4 existing payphone kiosks (1 to be replaced) are located within close proximity of the proposed site location for the replacement kiosk (see image below). 7 existing telephone kiosks in total are located within 90 metres of the site. Additionally, litter bins, cycle stands, trees, street signs, lamppost and a cabinet are also set the context for the proposed siting of the new, replacement kiosk. It is the Council's view that the Appellant has failed to

address the cumulative impact of the proposals in this context .In addition the appellant is still proposing to provide 9 kiosks within one street, which whilst is a reduction in the mass of kiosks currently in place is still unnecessary clutter. No evidence has been provided that this number is required to comply with OFCOM regulations, despite the assertions made by the appellant.



Image 2: The footway currently has numerous existing Kiosks (marked with red arrow), one not marked is the proposed kiosk to be replaced

- 7.11 The replacement of a fixed static advertisement on the existing kiosk with one which is illuminated via an LCD screen would be more noticeable and have a more heightened impact than the existing kiosk, resulting in an inappropriately prominent illuminated structure, especially if illuminated during evening and night time. This would particularly be the case given that the illuminated digital screen would occupy most of the rear elevation of the kiosk. In appeal decision (APP/X5210/W/20/3253727) for a kiosk on 1 Eversholt Street, the Inspector stated 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 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.’
- 7.12 The Council also disagrees with the Appellant’s view that the proposed structure would not add to the clutter on the footway. Notwithstanding the existence of this telephone kiosk in situ, the Council considers that the detailed design, size and large illuminated display panel of the proposed kiosk would serve to heighten the appearance of the structure considerably more, making it even more conspicuous than the existing kiosk which it would replace.

- 7.13 Moreover, the proposed kiosk would be smaller than the existing payphone box, this appears primarily through a reduction in depth rather than any noticeable reduction in width (the existing Infocus kiosk is marginally wider) and no reduction in height. Any reduction in size would therefore be minimal and not be something that would be experienced by pedestrians to any meaningful degree given that the height and width of the proposed structure would restrict views and movement along the pavement in the new location in much the same fashion as the existing Infocus kiosk.
- 7.14 The Council brings to the Inspector's attention that Tottenham Court Road has been the subject of a major public realm renewal programme as part of the Council's 'West End Project' involving an investment of £35m intended to transform this part of the borough. One of the key objectives of the Project is to reduce the number of telephone kiosks and to declutter the public highway and streets, and as such, significant works have already taken place over the last few years to realise these improvements in this location.
- 7.15 Similarly, one of the aims of the Fitzrovia Area Action Plan (Part 3: Vision and objectives) is to promote high quality physical environments in this locality through de-cluttering existing footways in order to enhance pedestrian movement and public realm. As an adopted Area Action Plan, the aims and objectives of the Fitzrovia Area Action Plan are closely associated with the Camden Local Plan and have equal weight to Local Plan policies.
- 7.16 It should also be noted that as part of a separate enforcement investigation following complaints about the underused and poorly maintained telephone kiosks along Tottenham Court Road, enforcement notices have been served on a number of kiosks in the street as a breach of condition A.2 (b) (Part 16 Class A) of the GPDO 2015. These sites include Infocus kiosks located nearby on the pavement outside nos. 80, 105 and 196-199 Tottenham Court Road.
- 7.17 There is no evidence in either the Appellant's statement or application submission that any consideration has been given to the local aims and objectives of either the Fitzrovia Area Action Plan or the West End Project, nor has any attempt been made to integrate the Council's wider highway, urban realm and landscape proposals into the proposals. At a time of re-invention of the street, with widening of pavements and appreciation of generous public realm, particularly as a result of the Covid-19 outbreak, these proposals are a disappointing reinstatement of underused pavement clutter. The proposal fails to create something that might possibly be considered a genuine improvement on the poor condition of the underused existing kiosk.
- 7.18 While it is accepted that all advertisements are intended to attract attention, the introduction of an illuminated advertisement panel in this particular location, therefore, would appear as a visually obtrusive piece of street furniture which would detract from the character and appearance of the streetscene and wider Fitzrovia Neighbourhood Area. The proposal is also at odds with the broader, integrated approach of the Council to improve and rationalise the public realm in Tottenham Court Road, and is contrary to its objectives which, amongst other aims, seeks to enhance the visual appearance of the streetscene and declutter pedestrian footways, rather than add additional, poorly designed, street clutter. In this regard, the proposal would fail to adhere to the policies and guidance listed above and in the associated delegated report.

- 7.19 Policy A1 (Managing the impact of development) of the Camden Local Plan states that the Council will 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.
- 7.20 The appellant has emphasised the potential public benefits from the inclusion of facilities, such as, a defibrillator, free Wi-Fi, possible free phone calls landlines and charities, wayfinding, device charging, public messaging capabilities and CCTV. However, there is no evidence that these facilities can only be provided on a kiosk of the proposed scale and with the inclusion of a large digital panel.
- 7.21 Furthermore, no evidence has been provided as to how these types of facilities might be appropriately and safely used under current circumstances, especially given the prevalence of personal mobile phone ownership which already provides many of the facilities proposed. Moreover, no details have been provided on the location of existing wayfinding or defibrillator coverage in the area or any consideration for whether there might already be scope for providing public messaging capabilities in some better way, for instance, on existing bus shelters within the street. It is also noted that public phone charging facilities of the type proposed can encourage anti-social behaviour (see also Sections 12.0 and 13.0 below, 'Crime Prevention').
- 7.22 Therefore, while due consideration has been given to any potential public benefit of the proposals, any such benefit is not considered to outweigh the harm caused to the character and appearance of the streetscene and Fitzrovia Neighbourhood Area, public safety, the loss of footway and the impact on the public realm for the reasons as stated above (and in Sections 8.0 to 13.0 below).
- 7.23 The Appellant has made no effort to respond to the vast appeal history (see relevant site history section of the Officer's delegated report) for these types of digital structures where the Council's concerns about impact of digital advertising and the cumulative impact was supported in the main by the Planning Inspectorate. The Appellant has provided no evidence of why advertisement panels either in principle or of this scale are necessary.
- 7.24 The Appellant refers to one of appeals decision (REF: PP/X5210/W/20/3253878 and 3253540 – see Appendix F) dated 06/10/2020 located outside pavement 39 Tottenham Court Road outlining that this proposal didn't require the removal any existing street furniture, unlike this proposal. Although the proposal didn't include the removal of any existing street furniture, the inspector concluded that; *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. Moreover, whilst I have acknowledged that the principle of development and the need for the facilities are not issues that can be taken into account, I consider that an additional call box in a position where there are already so many nearby would be perceived as somewhat incongruous by passers-by. This is not a comment arguing that there would be unnecessary or unwarranted competition, but an observation as to the visual impact of the structure in cumulative terms.*
- 7.25 The appellant has failed to address the Council's concerns about the impact of digital advertising panels/structures and their cumulative impact of the kiosks which have been supported in the main by the Planning Inspectorate as evidenced by the weight of appeals dismissed over a significant period of time.

7.26 Additionally, it is noted that planning permission and advertisement consent have most recently been refused dated 03/03/2022 (ref. 2021/3910/P & 2021/4348/P) in close proximity to the site (Pavement outside 19-21 Tottenham Court Road) for similar proposals to install a new BT street hub with a LCD illuminated digital advertisement panel where existing kiosks were also proposed to be removed (see Appendices G & H).

**8.0** ***'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'***

8.1 The Appellant's argues that kiosk will not result in unnecessary clutter and will free up pavement space. Additionally unlike the appeal decision (REF: APP/X5210/W/18/3211169) and 3211168 – see Appendix I), which referred to the inappropriate location of the kiosk, the location of this kiosk will align with existing street furniture, making the location more appropriate and safe.

8.2 The Appellant states that the set of appeals by Euro Payphone limited which were dismissed at appeal added to street clutter as they didn't remove any existing street furniture ad offered no local benefit, which according to the appellant is a complete contrast to this appeal.

8.3 The appellant states the proposed unit will not impact pedestrian movement as the proposed kiosk will be placed behind an existing kiosk (which won't be removed as apart of this proposal). According to the appellant the kiosk would only be visible for a short period of time and would not hinder pedestrian movement.

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

9.1 The starting point of the appellant is 33 kiosks on one street and whilst a reduction, the impact of 9 kiosks will still be substantial. Furthermore, whilst they claim an approval would necessitate the removal of kiosks under General Permitted Development Order 2015 Part 16 (A.2) (2), no evidence has been put forward to demonstrate all these existing kiosks are not in breach of A.2 (2) (b).

9.2 Policy D7 (Public Realm) of the New London Plan (Intend to publish) states in regard to development proposals that *'Applications which seek to introduce unnecessary street furniture should normally be refused'*.

9.3 Policy T2 (Healthy Streets) of the New London Plan (Intend to publish) states that *'Development proposals should demonstrate how they will deliver improvements that support the ten Healthy Streets Indicators in line with Transport for London guidance'*. It is considered that the application would fail to deliver any improvements which support any of the ten Healthy Streets Indicators.

- 9.4 Policy A1 (Managing the impact of development) of the Camden Local Plan states that the Council will 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.
- 9.5 Policy T1 (Prioritising walking, cycling and public transport) point e) states that the Council will seek to ensure that developments provide high quality footpaths and pavements that are wide enough for the number of people expected to use them, including features to assist vulnerable road users where appropriate, and Paragraph 9.10 of CPG Transport highlights that footways should be wide enough for two people using wheelchairs, or prams, to pass each other.
- 9.6 Paragraphs 7.41 and 7.42 of CPG Design provide guidance on telephone boxes and kiosks. Paragraph 7.41 states that *'In all cases the Council will request that the provider demonstrates the need for the siting of the new facility. We will consider whether kiosks add to or create street clutter, particularly if there are existing phone kiosks in the vicinity'*. Paragraph 7.42 states that *'All new phone boxes should have a limited impact on the sightlines from or of the footway and should not hamper pedestrian movement. The size of the 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'*.
- 9.7 This is supported by Policy C5 (Safety and security) of the Camden Local Plan which requires development to contribute to community safety and security. In particular, Paragraph 4.89 states that *'The design of streets, public areas and the spaces between buildings needs to be accessible, safe and uncluttered. 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 antisocial behaviour'*.
- 9.8 Removing one kiosk is considered to have minimal impact and not be something that would be experienced by pedestrians to any meaningful degree given the amount of existing kiosks in the immediate area.
- 9.9 Furthermore, the Inspector is also requested to note that prior approval was refused in 2012 (ref. 2012/2113/P) for the existing Infocus kiosk which is to be replaced at 29 Tottenham Court Road (see Appendix J) as it was considered by the Council to add visual clutter and detract from the character and appearance of the streetscene. It was also considered to reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm, amenity and safety of pedestrians and have a detrimental impact on the promotion of walking as an alternative to motorised transport.
- 9.10 Therefore, while existing kiosks are already located near to the appeal site and it is acknowledged by the Council that the footway is wider than the minimum width recommended by Transport for London (Appendix B of 'Pedestrian Comfort Guidance for London'), the loss of any available footway space in this location is considered to be particularly unacceptable given that pedestrian footfall is exceptionally high at this location and is predicted to increase significantly with ongoing economic growth in Central London and High Speed Two (HS2) currently under construction.
- 9.11 The appeal site is located on Tottenham Court Road (A400) which forms part of the strategic road network (SRN) and is located in a high footfall area in Central London near Goodge

Street and Tottenham Court Road stations (both London Underground). This is a busy road for both vehicular and pedestrian traffic. The footway is characterised by a defined street furniture zone at the kerbside. The site is already cluttered by the presence of a bus stop, benches, litter bins, cycle stands, trees, street signs, a lamppost and a cabinet - all within close proximity to the site. There are also \_existing payphone kiosks already located within close approximately (in addition to the existing kiosk to be replaced).

9.12 The proposal would therefore do nothing to improve matters for pedestrian movement in this location beyond a marginal reduction in width of available footway. Indeed, the proposal would simply re-introduce another significant physical and more prominent visual obstruction to an already highly cluttered pedestrian environment, so failing to improve the pedestrian environment at the site. This is considered to be unacceptable in such a high footfall location in Central London (arguably the highest footfall in the Borough).

9.13 Once more, the Council emphasises the importance of recent a major public realm renewal programme in Tottenham Court Road as part of the Council's 'West End Project' involving an investment of £35m intended to transform this part of the borough. One of the key objectives of the Project is to reduce the number of telephone kiosks and to declutter the public highway and streets, and as such, significant works have already taken place over the last few years to realise these improvements in this location. Similarly, one of the aims of the Fitzrovia Area Action Plan (Part 3: Vision and objectives) is to promote high quality physical environments in this locality through de-cluttering existing footways in order to enhance pedestrian movement and public realm.

9.14 The proposal would therefore be contrary to public realm works already carried out in Tottenham Court Road and at odds with the local aims and objectives of both the Fitzrovia Area Action Plan or the West End Project, and as such, be a disappointing reinstatement of underused pavement clutter.

**10.0 *'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'***

10.1 The Appellant acknowledges the Council's concerns that Tottenham Court Road experiences crime and anti-social behaviour but asserts that the existing kiosks due to their conditions creates an environment for crime to thrive. Additionally the appellant argues that the replacement kiosk would have a positive impact on the public realm and would reduce any fear of crime.

10.2 The appellant asserts that the proposed risk of crime associated with the kiosks would be low compared to the existing kiosks and street furniture.

### **11.0 Response to ground of appeal 3**

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).

- 11.2 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.'*
- 11.3 The Council disagrees with the appellant assertion that the proposed kiosk would contribute to the reduction in perception and fear of crime. While the Metropolitan Police Crime Prevention Design Advisor noted some design revisions to the kiosk made prior to the submission of the application (for instance, removal of charging shelf, reduction in depth of the canopy, inclusion of a management plan and prevention of free calls), concern still remains that the design of the proposed kiosk would not sufficiently reduce the risk of the types of crime listed above from occurring.
- 11.4 Metropolitan Police Crime Prevention Design Advisor noted that due to the openness of the kiosk, any mobile phones on display at this location (either in hand or on charge) would be vulnerable to the opportunist phone snatch. The close proximity of the site to the carriageway, would also increase the opportunity of this form of crime being carried out by moped or bicycle from the roadside. Furthermore, the large façade created as a result of the advertising screen would provide the opportunity for concealment and so increase the potential risk of theft and assault.
- 11.5 The Council reiterates that design and siting of a structure, which is considered to be poor, unnecessary and effectively creates a solid barrier to hide behind on a busy footway, would further add to street clutter and safety issues in terms of crime and ASB, through reducing sight lines and natural surveillance in the area, as well as, providing a potential opportunity for an offender to loiter. The proposal would therefore likely increase opportunities for crime and the fear of crime taking place in an area which already experiences issues with crime. This view is supported by the Metropolitan Police Crime Prevention Design Advisor in spite of any design revisions made as a result of pre-application discussions.
- 11.6 In regard to the management plan referred to by the Appellant, it is not considered sufficient to address the fact that ASB would likely be encouraged by the design of the kiosk itself. In an Appeal decision ref: APP/X5210/W/20/3253878 and 3253540 – see Appendix F) for similar proposals, the Inspector stated in Paragraph 28 that, *'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'.*
- 11.7 Therefore, in spite of any limited benefits that the Appellant states that the facilities associated with the proposed kiosk might provide (see also Paragraphs 7.22 to 7.24 above for Council's response in this regard), these do not outweigh the potential harm caused from increased opportunities for crime in an area which already experiences issues with crime, As such, the proposal would be contrary to Policies D1 and C5 (Safety and security), and CPG Design in this regard.

11.8 Furthermore, the Council reiterates again that no evidence has been provided as to how these types of facilities might be appropriately and safely used under current circumstances, especially given the prevalence of personal mobile phone ownership which already provides many of the facilities proposed. It is also noted that public phone charging facilities of the type proposed can encourage anti-social behaviour.

**12.0 *In absence of a legal agreement to secure the removal of the existing and others in the vicinity and a maintenance plan or the proposed kiosk, the proposal would be detrimental to the quality of the public realm, and detract from the character and appearance of the streetscene, contrary to policies D1 (Design), G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017***".

12.1 The appellant states an s106 agreement is not required as the removal of the existing kiosks would be replaced, which would comply with the GPDO. Additionally the appellant states that the existing kiosks won't be removed unless the proposed kiosks are approved and implemented.

12.2 Regarding maintenance, the appellant states the proposed kiosks would be cleaned every two weeks and checked for any damages.

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

13.1 While the Council considers the proposal to be unacceptable for the reasons set out in this statement, should the Inspector be minded to allow the appeals, the Council maintains that a plan for the removal of the entire existing stock of Infocus kiosks located within the borough should be secured through a S106 legal agreement which will also combine as an agreement under Section 278 of the Highways Act 1980. A condition would not be appropriate for this purpose.

13.2 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.*'

13.3 The Appellant states the removal of the kiosk would fall under permitted development, the Council would need to serve notices to secure their removal should there be any delay. It is considered without an s106 agreement the council cannot ensure the existing kiosks would be removed in a timely fashion and without additional resources.

13.4 In regard to the management plan referred to by the Appellant, it is not considered sufficient to address the fact that ASB would likely be encouraged by the design of the kiosk itself. In an Appeal decision ref: APP/X5210/W/20/3253878 and 3253540 – see Appendix F) for similar proposals, the Inspector stated in Paragraph 28 that, '*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’.*

- 13.5 The Appellant states that the kiosk would be visited twice a week and cleaned by way of evidence in part that the proposed kiosk would be adequately maintained. However, given the known existing poor condition of kiosks and hubs within the Borough, the Council strongly disagrees with the Appellant and considers a more detailed and agreed management plan is required, especially as there is clear evidence of the adverse effects in the streetscene of poorly maintained kiosks throughout the borough where such agreed plans have not been previously secured and are not in place.
- 13.6 As stated in Paragraphs \_above, the management plan referred to by the Appellant, it is not considered sufficient to address the fact that ASB would likely be encouraged by the design of the kiosk itself. The Council is drafting a legal agreement which it will aim to agree with the appellant prior to final comments.

#### **14.0 Conclusion**

- 14.1 Having regard to the entirety of the Council's submissions, including the content of this statement and attached appendices (listed below for ease of reference), the Inspector is respectfully requested to dismiss the appeal.
- 14.2 If any further clarification of the appeal submissions are required, please do not hesitate to contact Enya Fogarty on the above direct dial number or email address.

Yours sincerely,

**Enya Fogarty**

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

## **List of Appendices**

**Appendix A**-Suggested conditions

**Appendix B**-List of recent planning appeal decisions (x18 in total – x16 dismissed) dated November 2020

**Appendix C**-Decision notice (ref 2021/3912/P) – planning permission refused dated

**Appendix D**-Decision notice (ref 2021/4354/A) – advertisement consent refused dated

**Appendix E**-Planning appeal decision 3254037 & 3252962 – dismissed dated 16/10/2020

**Appendix F**-Planning appeal decision 3253878 & 3253540 – dismissed dated 16/10/2020

**Appendix G:** Decision notice (ref. 2021/3910/P) – planning permission refused dated 03/03/2022

**Appendix H:** Decision notice (ref. 2021/4348/A) – advertisement consent refused dated 03/03/2022

**Appendix I**-Planning appeal decision 3211169 & 3211168-dismissed dated 28/08/2019

**Appendix J**-Decision notice (ref. 2012/2113/P) – prior approval refused dated 07/06/2012