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Your Ref: APP/X5210/W/22/3290309 &  
APP/X5210/H/22/3290310  
Our Ref: 2021/2105/P & 2021/3106/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 JCDecaux UK Limited  
Site Address: Pavement outside 29 Tottenham Court Road London W1T 7QP**

I write in connection with the above appeals against the refusal of planning permission (Ref: 2021/2105/P) and advertisement consent (Ref. 2021/3106/A) for the ***Installation of a new phone hub unit following removal of existing kiosk as part of wider proposals to replace Infocus telephone kiosks and Display of LCD advertisement display with static images on the side of new phone hub unit.***

## 1.0 Summary

- 1.1 The planning and advertisement consent appeals for **29 Tottenham Court Road** form 2 of 18 applications for new telephone kiosks with associated advertisement consent applications submitted by JCDecaux for 9 separate locations. All appeals are set out in the table below for ease of reference:

Addresses	Local Ref	PINS ref
148 Holborn	2021/2104/P & 2021/3166/A	3291828 & 3291826
<b>29 Tottenham Court Road</b>	<b>2021/2105/P &amp; 2021/3106/A</b>	<b>3290309 &amp; 3290310</b>
81 Tottenham Court Road	2021/2103/P & 2021/3104/A	3290304 & 3290306
191 Tottenham Court Road	2021/2111/P & 2021/3108/A	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 & 2021/3111/A	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

- 1.2 The 18 applications (9 individual sites) were submitted as part of a larger set of 30 similar planning and advertisement consent applications in which the proposed development seeks the overall introduction of 15 new, replacement kiosks (following the removal of the entire stock of 28 Infocus older designed kiosks within the London Borough of Camden (a proposed net reduction of 13 kiosks in total).
- 1.3 As such, were planning permission and advertisement consent to be approved, 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 (see Appendix H).
- 1.4 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 **29 Tottenham Court Road**.

## 2.0 Kiosk and advertisement screen details

- 2.1 Appendix JCD 4 'Hub Unit Detail and Examples' of the application submission states that the proposed new, replacement kiosk would measure 1.3 metres (W) x 2.6 metres (H) and occupy a site area of approximately 0.5sqm (see Images 1 and 2 below). The rear elevation of the proposed kiosk would contain an internally illuminated advert panel. Appendix JDC 4 confirms that the screen would measure 0.935 metres (W) x 1.67 metres (H) with a visible display area of 1.6sqm. The screen's luminance level would not exceed 300 cd/sqm at night-time and a suggested 'switch off' period between 23.59 and 06:00 hours.



Images 1 and 2 - 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 A), 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 **29 Tottenham Court Road** (A400) on the 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 located approximately 12.5 metres further north of the existing kiosk's location. The pavement at the appeal site is approximately 10.3 metres in width. Existing along the same side of the pavement and in close proximity towards the south are: 3 existing telephone kiosks (1 kiosk to be replaced), a freestanding digital advertising panel, a bus stop, benches, litter bins, cycle stands, 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 18th February 2021 (a copy of the decision notice was sent with the questionnaire) 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 18th February 2021 (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. A copy of the report was sent with the questionnaire.
- 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 (which replaced the 2019 guidance) - chapters 2 (Design excellence) and 7 (Designing safer environments)
- CPG Transport 2021 (which replaced the 2019 guidance) - 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:

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

## **6.0 Character, Appearance and Visual Clutter**

- 6.1 The Appellant argues in the first ground of appeal 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 be smaller in design terms with additional public benefits and include an integral advertisement display.
- 6.2 The Appellant states more generally that all sites have a very similar context of a busy road frontage that are well trafficked, well-lit and active throughout the day and much of the night. The Appellant asserts that despite some of appeal sites being in conservation areas, illumination is a part of an area's character and that the defining factor in regard to the appropriateness of a kiosk is the prevailing character of an area.
- 6.3 The Appellant refers to a number of examples of consented digital display panels in 2018 along Tottenham Court Road (which is not in a conservation area) and where a similar structure was considered to be acceptable.

## 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'*. 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.
- 7.3 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.
- 7.4 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'*.
- 7.5 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.'*
- 7.6 The Council disagrees with the Appellant's assertion that the proposed replacement structure would not add to clutter on the street by virtue of its dimensions. Firstly, as stated in the officer's delegated report, the exact dimensions of the kiosk were unclear from the application submission and confirmation was required. Within Appendix JCD 4 'Hub Unit Detail and Examples' of the application submission, the unit is described on page 3 as '2.6m in height and 1.3m wide'; however, it is shown as a 2400mm high and 1100mm wide unit on page 12 of the elevational drawings. The appeal statement states that the proposed kiosk would measure 1100mm wide.
- 7.7 Although the Appellant states that 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, it being 1300mm wide) 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.

- 7.8 The Inspector 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 A) 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 Moreover, as shown by the comparison images referred to above, the existing kiosk has some open areas within its' overall form which provides some degree of transparency or permeability along the footway, as well as, serving to reduce the impression of bulk and allow views through. This is not achieved with the design for the proposed kiosk unit where visual permeability would be worsened given the unit's solid appearance which would not only adversely impair visibility by obscuring sightlines along the footway and creating an unnecessary obstruction or hazard to pedestrians, but would also result in more prominent, physical and visual clutter.
- 7.10 The Council also disagrees with the Appellant's view that the proposed structure would not add to clutter on the street given the presence of an existing telephone kiosk in the streetscene which it would replace. 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 (see Sections 8.0 and 9.0 below for detailed design considerations).
- 7.11 Additionally, the new site location for the replacement kiosk is noted as being approximately 12.5 metres further north of the existing kiosk's location. This would serve to extend the existing line of street clutter further north along the footway, so having the effect of worsening the visual impact and extent of physical clutter within the streetscene. This would particularly be the case given the inclusion of an illuminated digital advertisement display panel.
- 7.12 The Appellant argues generally that the inclusion of the illuminated panel would be appropriate given the context of the site and that illumination is a part of an area's character. The Council strongly disagrees with this assertion.
- 7.13 The replacement of a fixed 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 (facing south).
- 7.14 In a recent appeal decision in Camden (REF: APP/X5210/W/20/3254037 and 3252962 – see Appendix B) 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’.*

- 7.15 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. 3 existing payphone kiosks (1 to be replaced) are located within approximately 25 metres of the proposed site location for the replacement kiosk. 7 existing telephone kiosks in total are located within 90 metres of the site. A freestanding digital advertising panel is situated within 15 metres (3 freestanding digital advertising panels in total are located within 70 metres of the site). Additionally, a bus stop, benches, 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.
- 7.16 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.
- 7.17 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.
- 7.18 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.
- 7.19 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 lacks the initiative that has been shown elsewhere in the borough for creativity and reappraisal of streets and public spaces, and fails to create something that might possibly be considered a genuine improvement on the poor condition of the underused existing kiosk.

- 7.20 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. The Planning Inspector is therefore respectfully requested to dismiss this appeal on these grounds.
- 7.21 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.
- 7.22 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. It is also noted more generally, that as a result of the ongoing Covid-19 outbreak, many facilities such as public wayfinding hubs have been switched off and are unlikely to be used in the same way, so limiting the likely usage and any potential benefit.
- 7.23 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').
- 7.24 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).

- 7.25 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.
- 7.26 The Appellant refers to some examples of consented schemes in 2018 (Paragraph 3.8 of the Appellant's statement) for freestanding advertisement panels, following the replacement of existing advertisement panels within Tottenham Court Road in support of the current proposal. However, the Appellant has made no reference to the vast appeal history (see relevant site history section of the Officer's delegated report) for similar types of applications where the Council's concerns about the impact of digital advertising panels/structures and their cumulative impact have been supported in the main by the Planning Inspectorate, as evidenced by the weight of appeals dismissed over a significant period of time.
- 7.27 The Council also notes that the decisions referred to by the Appellant were made prior to more recent appeal decisions to refuse planning permission and advertisement consent for similar proposals. These decisions were supported by the Planning Inspector when dismissing a number of appeals, including proposals outside 216-217 Tottenham Court Road (REF: PP/X5210/W/20/3253878 and 3253540 – see Appendix C) dated 06/10/2020. In this case, the Inspector took the view 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'*.
- 7.28 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/A) 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 D and E).

## **8.0 Location, Size and Unit Design**

- 8.1 The Appellant's argues that the replacement kiosk represents an improvement on the pre-existing position and that the size and design of the structure is appropriate for the roadside locations and would not appear as an intrusive feature.

- 8.2 The Appellant argues that the method of illumination would not be harmful to the amenity of the street, particularly as the luminance level could be tightly controlled and conditioned, and would be surrounded by other brightly lit shopfronts and glass facades.
- 8.3 The Appellant refers again to a number of examples of consented digital display panels in 2018 along Tottenham Court Road (which is not in a conservation area) and where a similar structure was considered to be acceptable. In this regard, the Appellant refers to a fundamental tenet of Planning that each case is judge on its own merit and the equal importance of being consistent in the application of policy and assessment of harm.

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

- 9.1 Contrary to the Appellant's view, the proposed structure is considered to be poor in design terms given its size and position on an area of public footway currently already significantly cluttered by street furniture (see Paragraphs 7.12 to 7.20 above for details on site context).
- 9.2 The design of the unit is not considered to be the high quality that Camden expects across the borough's buildings, streets and open spaces. There is nothing distinctive or responsive to context within the proposal, which would appear to be a missed opportunity to try and improve the streetscene and perhaps create a uniquely Camden unit. The 'Metal Chain Grey' has a particularly unwelcoming and gloomy appearance, which combined with the uncompromising bulk would have an adverse visual effect. The proposed kiosk appears to have been designed around the inclusion of a large digital screen which has resulted in a large monolithic panel which gives the overall appearance as an advertisement panel rather than a phone kiosk. As a consequence of this design approach, the resultant structure would appear dominant, visually intrusive and serve to detract from the appearance of the wider streetscene and Fitzrovia Neighbourhood Area.
- 9.3 As noted in Paragraph 7.7 above, any reduction in size in comparison with the existing payphone box is primarily through a reduction in depth rather than any noticeable reduction in width (the existing Infocus kiosk is marginally wider, it being 1300mm wide) 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.
- 9.4 As stated previously, at a time of re-invention of the street, with widening of pavements and appreciation of generous public realm, the proposals are a disappointing replacement and reinstatement of underused pavement clutter. The proposal lacks the initiative that has been shown elsewhere in the borough for

creativity and reappraisal of streets and public spaces, and fails to create something that might possibly be considered a genuine improvement on the poor condition of the underused existing kiosk.

- 9.5 Furthermore, Camden has declared a climate emergency and considers the reduction in carbon emissions to be critical. These proposals go against that, with embodied carbon involved in the creation of the new units and the level of operational carbon associated with running an illuminated screen is expected to be higher than that of the existing payphone box it would replace.
- 9.6 The Council disagrees with the view expressed by the appellant in regard to the illuminated display panel and its potential impact in amenity terms. While it is recognised by the Council that the proposed integrated digital advertising panel would be displayed on a replacement kiosk, the inclusion of the panel would introduce illuminated digital advertising, which by design is a more visually prominent and attention grabbing form of display than, say, a traditional 6-sheet advertising panel, by virtue of its method of illumination and image transition.
- 9.7 It is important to note that advertisement consent was refused at the appeal site in 2015 for the display of an internally illuminated sign on the existing Infocus kiosk (ref. 2014/5815/A). The Planning Inspector is referred to Paragraph 5 in particular of the appeal decision (Ref: APP/X5210/H/14/2229783 - see Appendix F) in which the Inspector concluded in dismissing the appeal, *'From my observations, the internal illumination of the advertisement would unacceptably add to visual clutter in this stretch of pavement. It would appear as an intrusive and prominent addition, to the detriment of the character and appearance of the surrounding area.'* The Planning Inspector is respectfully requested to dismiss this appeal on the same grounds.
- 9.8 The provision of a large digital screen would therefore add noticeable, visual clutter by virtue of its size (along with its' location, prominence and method of illumination) to this busy stretch of pavement on Tottenham Court Road, resulting in an incongruous addition which would be harmful to the character and appearance of the area and contribute to the degradation of visual amenity within the streetscene and wider Fitzrovia East Neighbourhood Area.
- 9.9 As referred to above, the Planning Inspector noted in Paragraph 21 of a recent appeal decision (Ref: APP/X5210/W/20/3254037 and 3252962 – see Appendix B) in relation to a phone kiosk of a marginally smaller scale, but with a similar design approach, 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'*. The Planning Inspector is therefore respectfully requested to dismiss this appeal on the same grounds.

- 9.10 In terms of the proposed screen's luminance level, the supporting cover letter and conditions document confirm that this would not exceed 300 cd/sqm during the hours between dusk and dawn; however, the application form states that the level would be 600 cd/sqm. This is contradictory. It's also not clear what the maximum luminance level would actually be during daylight hours, especially given that the screen could be active throughout the majority of any 24 hour period, 7 days a week.
- 9.11 The Appellant refers in the appeal statement to a suggested screen's luminance level of 300 cd/sqm at night-time and a 'switch off' period between 23.59 and 06:00 hours. While it is accepted that certain aspects of the display can be controlled by condition should consent be granted (such as, luminance levels, transition, sequencing, etc.) and that all advertisements are intended to attract attention, the addition of an illuminated digital advertisement in this location would nevertheless significantly raise the prominence of the proposed piece of street furniture.
- 9.12 In this regard, it is noted in 4 appeals for comparable illuminated digital advertisement displays (see Appendix G) dated 22/05/2018 (Ref: APP/H5390/Z/17/3192478 (Appeal B); APP/H5390/Z/17/3192472 (Appeal B); APP/H5390/Z/17/3192470 (Appeal B); APP/H5390/Z/17/3188471 (Appeal B), the Planning Inspector commented that while the luminance level and rate of image transition could be controlled by condition, the appeal proposal would nevertheless create an isolated and discordant feature. In each case, the display of a sequential series of static digital images was considered to be conspicuous and eye-catching, and as such, would have a harmful effect upon visual amenity.
- 9.13 The Appellant also appears to overlook the cumulative effect that additional digital advertising can have in a particular location. The appeal site is already cluttered by the presence of a number of existing phone kiosks, a bus stop, benches, litter bins, cycle stands, trees, street signs, a lamppost and a cabinet - all within close proximity to the site. However, most notably in terms of illuminated signage, a freestanding digital advertising panel already exists within approximately 15 metres of the proposed sign on the same side of the road to the south (see Images 3-5 in Paragraph 11.10 below).
- 9.14 The introduction of another illuminated digital advertisement display panel sited within such close proximity to each other would therefore not only worsen the current situation by introducing more prominent, additional visual and physical clutter, but also by contributing to the over proliferation of signage in this location. Local Plan Policy D4 (Advertisements) states that the Council will resist advertisements that *'contribute to an unsightly proliferation of signage in the area and contribute to street clutter in the public realm'*.
- 9.15 Overall therefore, the introduction of the screen would appear as an incongruous and dominant illuminated feature in this location, severely degrading the visual amenity of the area and streetscene and wider Fitzrovia East Neighbourhood Area, through

the creation of visual clutter, as well as, contributing to the over proliferation of illuminated signage in this location. As such, the proposal fails to adhere to Section 12 of the NPPF, and Local Plan Policies D1 (Design) and D4 (Advertisements), and Part 3 (Vision and objectives) of the Fitzrovia Area Action Plan 2014 in this regard.

- 9.16 Should the Inspector be minded to allow this appeal, conditions to control the brightness, orientation and frequency of the displays, and to prevent any moving displays, are suggested to be attached to any consent along with a legal agreement to secure removal of the existing stock of Infocus kiosk in the borough (see Appendix H).
- 9.17 Moving on, the Appellant highlights again specific examples of consented digital display panels in 2018 in support of the current application proposal. The Council refers the Planning Inspector to Paragraphs 7.26 to 7.28 above in this regard in order to avoid repetition of response.
- 9.18 In addition, since the applications which are the subject of this appeal were refused on 18/02/2021, the Council brings to the Planning Inspector's attention that all 20 applications (planning and advertisement consent) for various sites in Tottenham Court Road have been refused for structures with digital display panels for similar reasons. This includes a refusal of planning permission and advertisement consent dated 03/03/2022 in close proximity to the appeal site (ref. 2021/3910/P and 2021/4348/A) on the pavement outside 19-21 Tottenham Court Road (see Appendices D and E). It is noted that the Appellant makes no reference to these more recent decisions.
- 9.19 The Appellant also expresses the general view that each case needs to be judged on its own merit and the equal importance of consistency in the application of policy and assessment of harm. The Council agrees with this approach and has been mindful throughout the application (and appeal) process of the need to assess the proposal on its own merits, taking into account any matters pertinent to the proposals in accordance with all relevant policy and guidance as set out in Section 4.0 above of this Statement of Case.
- 9.20 Notwithstanding this, the Council notes that though the Appellant highlights some specific examples of consented digital display panels in 2018 in support of this approach and by way of emphasising a need for consistency in relation to the assessment of the current proposal, the Appellant overlooks entirely the vast appeal history also available for other similar types of applications in Tottenham Court Road and comparative central London locations within the borough (see relevant site history section of the Officer's delegated report, as well as, the most recent refusals referred to in Paragraph 9.17 above).
- 9.21 For the purposes of consistency, the Council associates equal importance to these and all relevant application and appeal history (including the examples highlighted by the Appellant) and has accordingly given full consideration to these in the application

of policy and assessment of harm for the current appeal applications. In the majority of cases, the appeals history confirms that the Council's concerns about the harmful impact of digital advertising panels and associated structures/kiosks have been supported by the Planning Inspectorate, as evidenced by the weight of appeals dismissed over a significant period of time.

## **10.0 Footpath Widths and Pedestrian Flow**

- 10.1 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.
- 10.2 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.

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

- 11.1 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'*.
- 11.2 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.
- 11.3 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.
- 11.4 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.
- 11.5 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'.*

- 11.6 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'.*
- 11.7 The Council disagrees with the Appellant's assertion in regard to the impact of the proposed kiosk on pedestrian movement in this location and that the proposed replacement structure would not add to clutter on the street by virtue of its dimensions.
- 11.8 Firstly, as outlined in more detail in Paragraphs 7.6 to 7.7 above, although the Appellant states that 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 proposed kiosk would be 1100mm wide and the existing Infocus kiosk is marginally wider, it being 1300mm wide) 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.
- 11.9 The Inspector's is respectfully requested to note that the proposed kiosk would be larger than those refused in various locations in Camden in 2020 (see Appendix A) 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.
- 11.10 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 (see Appendix I) 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. These concerns still remain in regard to the existing Infocus kiosk and equally apply to the proposed new, replacement kiosk (see Images 3-5 below).



Images 3 and 4 – the appeal site (looking north)

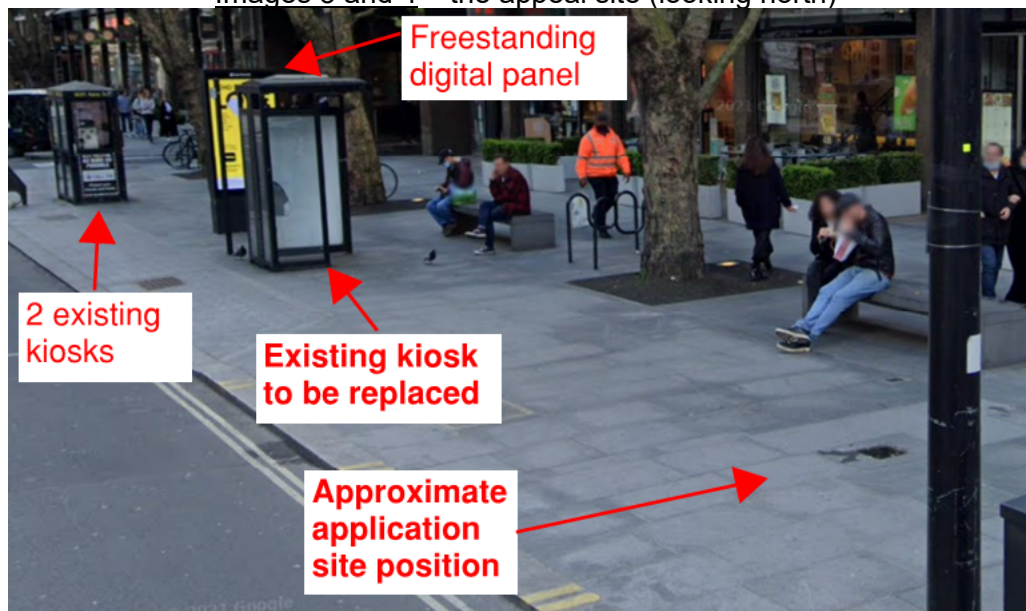


Image 5 - the appeal site (looking south)

11.11 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 2 existing payphone kiosks already located within approximately 25 metres of the site to the south (in addition to the existing kiosk to be replaced) and a freestanding digital advertising panel just 15 metres away.

- 11.12 Therefore, while an existing kiosk is 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.
- 11.13 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 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).
- 11.14 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.
- 11.15 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.

## **12.0 Crime Prevention**

- 12.1 The Appellant asserts that the kiosk would not result in an increase of crime and that work has been carried out with the Metropolitan Police to understand issues within Camden and Greater London (and Manchester), including pre-application discussions with the Metropolitan Police Design Out Crime unit.
- 12.2 The Appellant refers to measures to prevent misuse include no free calls to mobile numbers, the blocking of frequently call numbers and potential use of CCTV. Each unit is equipped with rapid access to the emergency services and provides a link to

assistance when required. The Appellant also refers to a management plan included as part of the application documentation.

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

- 13.1 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).
- 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 refers to pre-application discussions with the Metropolitan Police Design Out Crime unit. However, 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, angled design to defibrillator housing, 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.
- 13.4 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.
- 13.5 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.
- 13.6 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 C) 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’*.

- 13.7 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.
- 13.8 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. 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.

#### **14.0 Removal of Obsolete Equipment and Unit Maintenance**

- 14.1 The Appellant states that should the Inspector be minded to approve permission/consent, then it is considered feasible that a condition of such permission/consent could require the removal of all of the telephone boxes identified in Appendix JCD 2. In the alternate, a condition could require the Appellant to submit a plan to the Council that identifies the existing telephone boxes that are to be removed, prior to the implementation of a particular permission/consent.
- 14.2 The Appellant states that it is a common misconception that this type of free to use public facility is not needed or used. The Appellant asserts that the proposed kiosk units have been monitored in the UK over the last 18 month period and the data suggests that when modern reliable, secure and well-maintained technology is provided the public does engage and use it.
- 14.3 The Appellant’s argues that it is unnecessary for the Council to seek to ensure the Appellant maintains its estate as it is in the interest of all parties that the proposed kiosk and equipment is properly maintained and in full working order.

#### **15.0 Response to ground of appeal 5**

- 15.1 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 28 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.
- 15.2 In regard to usage, no call or usage data for the existing kiosk, nor usage data referred to by the Appellant for the proposed kiosk, has been provided to the Council as evidence that the existing kiosk is either in use or the degree to which it is used by the public, or in support of the proposed new, replacement kiosk. Therefore, in the absence of such data, it is not possible for the Council to comment specifically about either the current or potential need for a kiosk at the appeal site.
- 15.3 However, given Council concerns about the infrequent use of telephone kiosks by the public due to the prevalence of mobile phone use which already include many of the facilities that the proposed kiosk would provide, and the fact that many public facilities such as wayfinding service have been switched off and are unlikely to be used in the same way following the Covid-19 outbreak, the likely usage and benefit of such facilities are considered generally by the Council to be limited. As such, any need or benefit from the proposal is not considered to outweigh the harm from the proposal given the strong objections by the Council as outlined in this appeal statement.
- 15.4 In regard to maintenance of the proposed kiosk, the Appellant states that the kiosk would be visited once a week and cleaned by way of evidence in part that the proposed kiosk would be adequately maintained and therefore it is unnecessary to secure a detailed management plan with the Council. However, given the known existing poor condition of kiosks and hubs within the Borough, the Council strongly disagrees with the Appellant and maintains that 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.
- 15.5 Additionally, the Council disagrees with the Appellant's assertion that an advertisers would not purchase the kiosk if it was in bad condition. It is the Council's experience of the existing kiosk stock throughout the borough that advertisements are regularly displayed on kiosk in spite of the poor condition of the unit itself. In these circumstances, advertisements typically remain in place and continue to be changed with new displays on a regular basis without any noticeable maintenance or upkeep in a kiosk's condition.

15.6 As stated in Paragraphs 13.6 to 13.7 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.

## **16.0 Conclusion**

16.1 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.

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

Yours sincerely,

**Tony Young**

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

## **List of Appendices**

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

**Appendix B:** Planning appeal decision 3254037 & 3252962 – dismissed dated 16/10/2020

**Appendix C:** Planning appeal decision 3253878 & 3253540 – dismissed dated 16/10/2020

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

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

**Appendix F:** Planning appeal decision 2229783 - advertisement consent dismissed dated 18/06/2015

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

**Appendix H:** Suggested conditions & Section 106 legal agreement

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