

Enforcement Delegated Report

Receipt date:

25/11/2019

Officer

Katrina Lamont

Enforcement Case

EN19/0966 - L12 0207 636 1015

EN19/0967 - L13 0207 636 1761

Breach Address

2 x BT Telephone Kiosk (Ref: 0207 636 1015 and 0207 636 1761) on pavement outside 39 Tottenham Court Road

Photos & Other material

On file

Authorised Officer Signature



15/02/2023

Alleged Breach

Breach of condition A.2 (2) of Part 24 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)

Recommendation(s):

That the Borough Solicitor be instructed to issue a Beach of Condition Notice under Section 187A of the Town and Country Planning Act 1990 (as amended) for the breach of condition A.2 (2) of Part 24 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and Officers be authorised in the event of non-compliance to prosecute under that section or to issue Injunction proceedings to remove the unauthorised public call boxes.

Site Description

Tottenham Court Road is a major thoroughfare linking Centrepoint and the West End with Euston Road. It is commercial in nature containing shops, hotels and office buildings. It is an important transport corridor with many bus routes and three underground stations. It has undergone a major refurbishment through the West End Project.

Although Tottenham Court Road is only 1.1km long there are 32 public call boxes located on it which are generally poorly maintained, some only providing free calls, not working and/or are a focal point for anti-social behaviour, including drug supply and consumption.

The 2 x BT public call boxes are located on the pavement outside no.39 Tottenham Court Road. It is not sited within a conservation area but is bounded by the Bloomsbury Conservation area to the east and Charlotte Street Conservation Area to the south. It also lies in close proximity to the to the Grade II listed terrace no.20 Percy Street shown in blue in the map below and the public call box with a pin. The site is located in the Fitzrovia East Neighbourhood, Fitzrovia Action and Charlotte Street Community Association Areas.

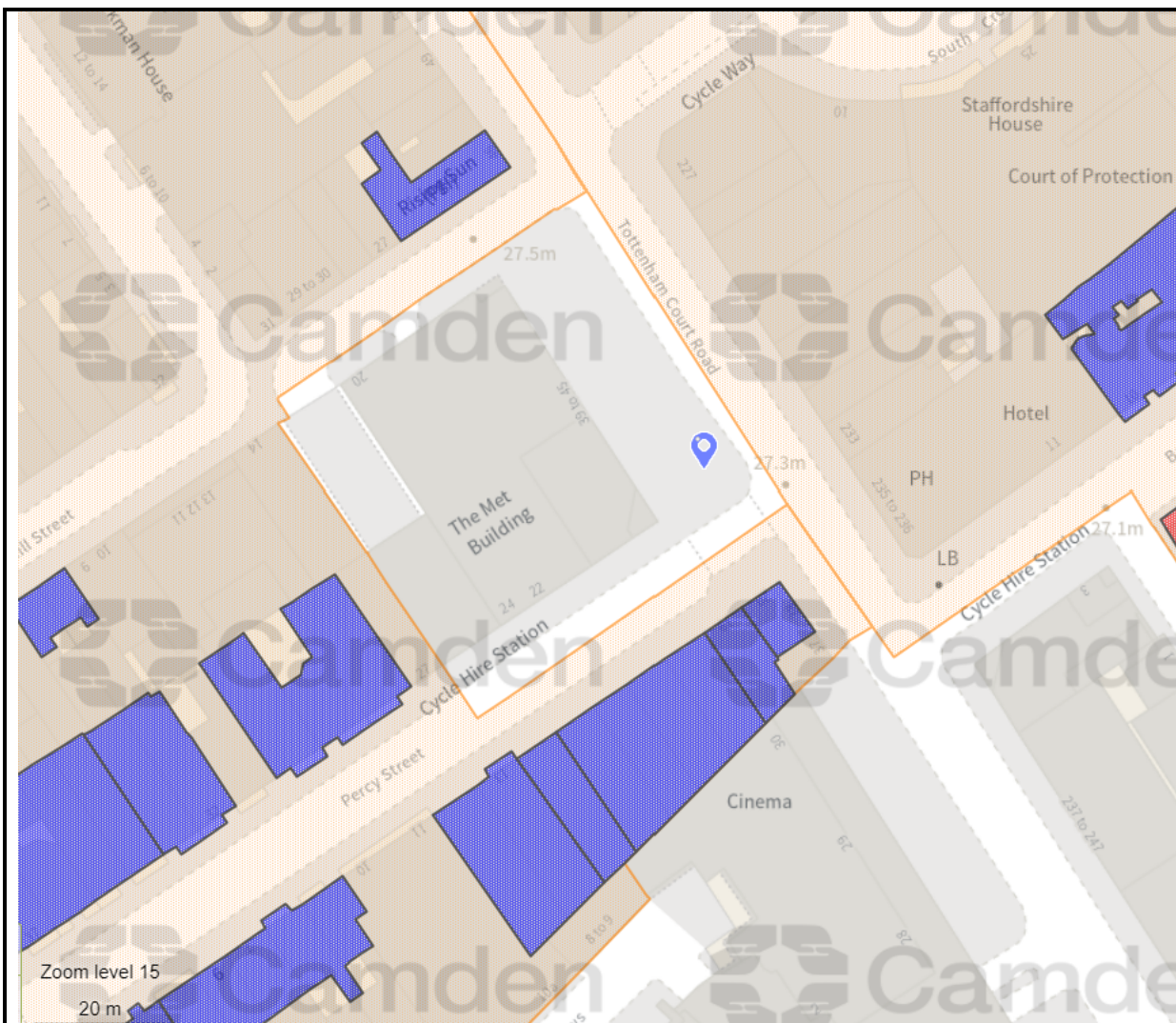


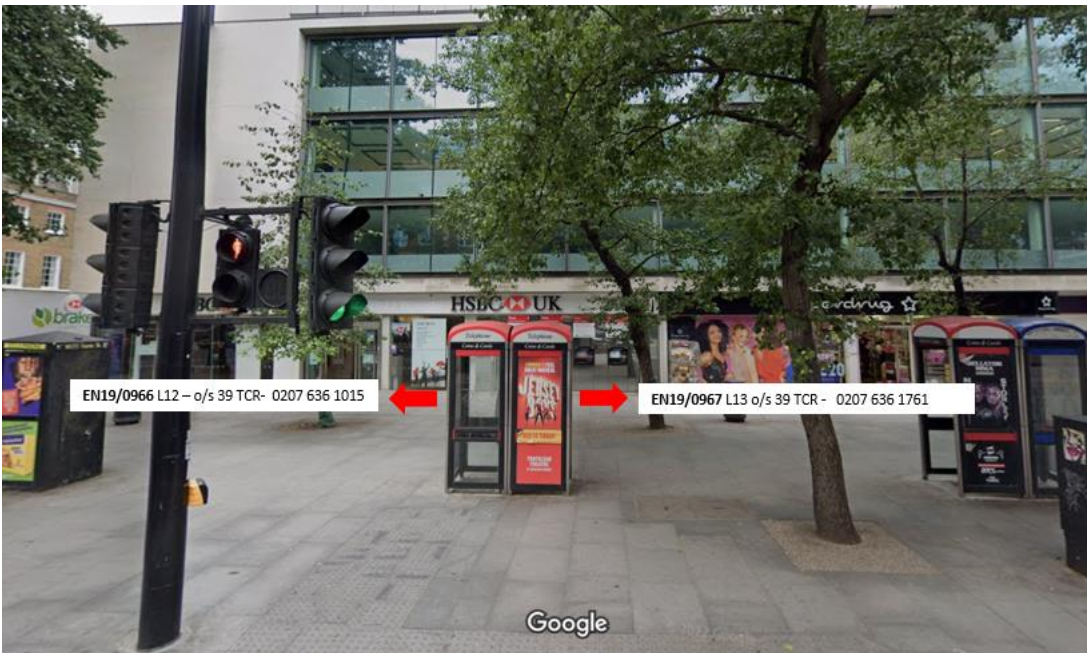
Image showing location of Grade II listed building no.20 Percy Street



EN19/0966 L12 – o/s 39 TCR- 0207 636 1015



EN19/0967 L13 o/s 39 TCR - 0207 636 1761



Google streetview image showing 2 x BT public call boxes outside 39 Tottenham Court Road. A NWP and BT public call boxes can be seen in close proximity.



Location of 2 x BT public call boxes on pavement outside 39 Tottenham Court Road, London

Investigation History

Complaints were initially received in 2019 in relation to the condition of public call boxes along Tottenham Court Road. In 2019 and 2022 Planning Contravention Notices (PCN) were served on all public call boxes within the street and site inspections undertaken. Warnings were issued that the Council is concerned with the condition of the public call boxes and whether they are still required.

An Enforcement Notice was issued on 30th September 2021 in relation to 3 other public call boxes in the street and appealed. However, following a review of the enforcement approach with Counsel, the enforcement notice was withdrawn. An award for costs in favour of the appellant was awarded on 8th June 2022. Following recent inspections of the condition of the public call boxes and the information provided in the 2022 PCN, the Council has decided to issue a Breach of Condition Notice.

Planning History

2021/3912/P – Full planning application submitted to the Council on 12/08/2021 for Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosks – **Refused on 03/03/2022 and appeal dismissed on 11/10/2022 (Ref: APP/X5210/W/22/3297273)**

Reason for refusal:

1. The proposed telephone kiosk, by reason of its height, bulk, design and location, would add visual clutter and detract from the character and appearance of the wider streetscene and 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

2. The proposed telephone kiosk, by virtue of its location, size and detailed design, adding to unnecessary street clutter, would reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm, cause harm to highway and pedestrian safety and hinder pedestrian movement and have a detrimental impact on the promotion of walking as an alternative to motorised transport, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.
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 and others in the vicinity and a maintenance plan for the proposed kiosk, the proposal would be detrimental to the quality of the public realm, and detract from the character and appearance of the streetscene, contrary to policies D1 (Design), 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.

Appeal decision (dismissed):

While the proposed kiosk would not interfere with the way in which the surrounding buildings are viewed, it would nevertheless be a very conspicuous feature on the pavement, appearing more as a large, flat panel rather than a traditional phone box. Not only would it be notably taller and wider than the existing kiosks, it would also present face-on to those walking along this part of the street. Its solid, angular profile combined with its height would make the kiosk appear far more conspicuous than the existing phone boxes despite its slim design and relatively small footprint.

That said, the proposal would involve the removal of existing BT kiosks which would help to reduce the overall quantity of street furniture on this part of the pavement. I am also conscious that the existing BT kiosks are dated and in a poor state of repair, with some being covered in graffiti and showing signs of physical damage. Refreshing the old kiosks with a more modern installation therefore has some potential to create a cleaner and more visually pleasing street scene than exists at present. However, the Police say that the area is prone to criminal activity and the main reason why the existing BT kiosks are something of an eyesore is that they have been vandalised and poorly maintained. If the proposed new kiosk were to be vandalised or to fall into similar disrepair, it would become even more of an eyesore than the existing kiosks due to its increased height, width, and general prominence. Based on my own observations of the site and the written evidence, it seems highly likely that it would be prone to vandalism.

I therefore conclude that the proposal would have a harmful effect on the character and appearance of the area. There would be conflict with Policies G1 and D1 of the Local Plan, which aim to maintain high standards of design. The proposal would also conflict with the objective in Part 3 of the Fitzrovia Area Action Plan² to enhance the interaction between streets and the ground floors of buildings by removing visual clutter and encouraging high quality design. Although the proposal would help to reduce visual clutter by removing the existing BT kiosks and replacing them with a single unit, it would not maintain high standards of design for the reasons set out above.

2021/4354/A – Advertisement application submitted to the Council on 08/09/2021 for Display of 1 x LCD illuminated digital advertisement panel to new phone hub unit – **Refused on 03/02/2022 and appeal dismissed (Ref: APP/X5210/W/22/3297276) on 11/10/2022**

Reason for refusal:

1. The proposed advertisement, by virtue of its location, scale, prominence and method of illumination, 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
2. The proposed advertisement, by virtue of its location, scale, prominence, and method of illumination, would add visual clutter, detrimental to the amenity of the streetscene and nearby conservation areas, contrary to policies D1 (Design), D2 (Heritage) and D4 (Advertisements) of the Camden Local Plan 2017 and Part 3 (Vision and objectives) of the Fitzrovia Area Action Plan 2014

Appeal decision (dismissed):

The proposed advertising display would be broadly compatible with the commercial nature of street frontage in this location and the illuminated shop fronts. However, it would be a very prominent feature on the pavement due to its size and positioning. For similar reasons to those already covered under -term disrepair. I therefore conclude on this issue that the proposal would harm visual amenity. The proposal was considered to have an acceptable impact on public safety.

2018/5549/P - Prior approval application submitted to the Council on 12/11/2018 for Installation of 1 x telephone kiosk on the pavement – **Prior approval required –approval refused on 20/12/2018. Appeal dismissed (Ref: APP/X5210/W/19/3231426)**

Reason for refusal:

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 street scene, contrary to policy D1 (Design) of the London Borough of Camden Local Plan 2017.
2. The proposed telephone kiosk, by virtue of its location, size and detailed design, and adding unnecessary street clutter, would reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm, cause harm to highway safety and hinder pedestrian movement and have a detrimental impact on the promotion of walking as an alternative to motorised transport, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.
3. The proposed telephone kiosk, by virtue of its inappropriate siting, size and design, would fail to reduce opportunities for crime and antisocial behaviour to the detriment of community safety and security, and compromise the safety of those using and servicing the telephone kiosk contrary to policy C5 (Safety and Security) of the London Borough of Camden Local Plan 2017.
4. The proposed telephone kiosk, by reason of its design, would not be accessible to wheelchair users, failing to promote fair access or meet sufficient standard of design contrary to policy C6 (Access for all) of the London Borough of Camden Local Plan 2017.

Appeal decision (dismissed) :

The appellant company has provided Counsel's opinion on the relevance of the Westminster judgment to the appeal proposals. The opinion states that 'in the absence of advertising forming part of the application, those glazed parts of the call boxes cannot lead to any conclusion of there being a dual purpose for advertising'. It concludes that 'the New World case is based on materially different

facts from the Maximus cases, such that it is of no application to the appeals currently under consideration by the Planning Inspectorate’.

However, the Westminster judgement confirmed ‘that the whole development for which prior approval is sought must fall within the class relied on, and no part of it can fall outside it’. The judgement went on to state that ‘A development therefore falls outside the scope of Class A Part 16 if it is not "for the purpose" of the operator's network. That means, at least in the specific context of a GPDO permission, that a proposed development falls outside it, if part of it falls outside it. It cannot be said that the whole falls within the GPDO... A development which is partly "for the purpose" of the operator's network, and partly for some other purpose, is not a development "for the purpose" of the operator's network, precisely because it is for something else as well. The single dual purpose development must be judged as a whole.’

It is evident from the drawing ‘MAX 2 ASSEMBLY Rev C’, which accompanied each of the appeal applications, that the ‘front view’ of the proposed public call boxes is designed to house an integrated ‘visual area’ measuring 1100mm by 1700mm. From this evidence, it seems to me that the ‘front view’ of the proposed installations is specifically designed for display purposes. This assessment is irrespective of whether such display panels might also be used to access the internal equipment within the structures for maintenance purposes.

2018/0311/P - Prior approval application was submitted to the Council on 21/01/2018 for Installation of 1 x telephone kiosk on the pavement. – **Prior approval required– approval refused on 15/03/2018 and appeal dismissed (Ref: APP/X5210/W/18/3211169) on 19/02/2019**

Reason for refusal:

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 street scene, contrary to policy D1 (Design) of the London Borough of Camden Local Plan 2017.
2. The proposed telephone kiosk, by virtue of its location, size and detailed design, and adding unnecessary street clutter, would reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm, cause harm to highway safety and hinder pedestrian movement and have a detrimental impact on the promotion of walking as an alternative to motorised transport, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), C6 (Access for all) and T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.
3. The proposed telephone kiosk, by virtue of its inappropriate siting, size and design, would fail to reduce opportunities for crime and antisocial behaviour to the detriment of community safety and security, and compromise the safety of those using and servicing the telephone kiosk contrary to policy C5 (Safety and Security) of the London Borough of Camden Local Plan 2017.
4. The proposed telephone kiosk, by reason of its design, would not be accessible to wheelchair users, failing to promote fair access or meet sufficient standard of design contrary to policy C6 (Access for all) of the London Borough of Camden Local Plan 2017

Appeal decision (Ref: APP/X5210/W/18/3211169):

The site in this case is within the street block bounded by Percy Street to the south east and Windmill Street to the north west and is one block away from the stretch of road in Appeal A, with similar characteristics of a generous pavement and two lines of street furniture.

Whilst in this instance the appeal site would occupy a mid-pavement as opposed to a kerb edge position, the constraints on the siting of additional paraphernalia for the public’s use are essentially the same. The call box would be sited outside the HSBC bank and at varying depths in the pavement

opposite the double frontage there are already wooden seats, litter bins and three older style phone kiosks, one pair and one individual.

Slightly nearer Windmill Street are more seats and bins, another pair of kiosks, a bus stop and shelter, with the latter having prominent advertising. Most significant of all is the bulky green retail kiosk. Although mature street trees offer some visual relief, I reach the same conclusion for the proposed call box in front of No. 39. I conclude (on balance in all cases) that (i) the installation of public call boxes on the pavements at 23 and 39 Tottenham Court Road (Appeals A & B) would have an unacceptably harmful effect on the character and appearance of the street scene and that the appeals should be dismissed.

2017/1090/P – Prior approval application submitted to the Council on 27/02/2017 for Installation of 1 x telephone box on the pavement – **Prior approval required and approval refused on 07/04/2017**

Reason for refusal:

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 street scene and the adjacent conservation areas contrary to Core Strategy Policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies and policy D1 (Design) and D2 (Heritage) of the Camden Local Plan Submission Draft 2016.
2. The proposed telephone kiosk, by virtue of its location, size and detailed design, adding unnecessary street clutter, would reduce the amount of useable, unobstructed footway, which would be detrimental to the quality of the public realm, cause harm to highway safety and hinder pedestrian movement and have a detrimental impact on the promotion of walking as an alternative to motorised transport, contrary to policy CS11 (Promoting sustainable and efficient travel) of the London Borough of Camden Local Development Framework Core Strategies Development Plan Policies and policies DP17 (Walking, cycling and public transport) and DP21 (Development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies and A1(Managing the impact of development), C6 Access and (T1 Prioritising walking, cycling and public transport) of the Camden Local Plan Submission Draft 2016.
3. The proposed telephone kiosk, by virtue of its inappropriate siting, size and design, would fail to reduce opportunities for crime and antisocial behaviour to the detriment of community safety and security, and compromise the safety of those using and servicing the telephone kiosk contrary to policy CS17 (Making Camden a safer place) of the London Borough of Camden Local Development Framework Core Strategy and C5 Safety and Security of the Camden Local Plan Submission Draft 2016.

PS9604095 – Prior approval for upgrade existing telephone kiosks – **Agreed in default, 04/12/1996**

Relevant policies / GPDO Category

Local plan 2017

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

Supplementary planning guidance

CPG Design (2019)
CPG Transport (2019)
CPG Advertisements (2018)
CPG Amenity (2018)
Camden Streetscape Design Manual
Fitzrovia Area Action Plan (2014).
Fitzroy Square Conservation Area Appraisal and Management Plan
Charlotte Street Conservation Area
Bloomsbury Conservation Statement

National Planning Policy Framework (2019)
London Plan (2020)
Design of an accessible and inclusive built environment. External environment
(code of practice - BS8300-1:2018 and BS-2:2018)
Digital Roadside Advertising and Proposed Best Practice (commissioned by
Transport for London) March 2013
TfL's Pedestrian Comfort Guidance for London (2010)

Assessment

Background

The public call boxes were installed under Part 24 Class A to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. This provided as follows:

“Permitted development

A. Development by or on behalf of a telecommunications code system operator for the purpose of the operator's telecommunication system in, on, over or under land controlled by that operator or in accordance with his licence, consisting of—

(a) the installation, alteration or replacement of any telecommunication apparatus...”

Permission was granted subject to the condition contained within Paragraph A.2 of Part 24, Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 as follows:

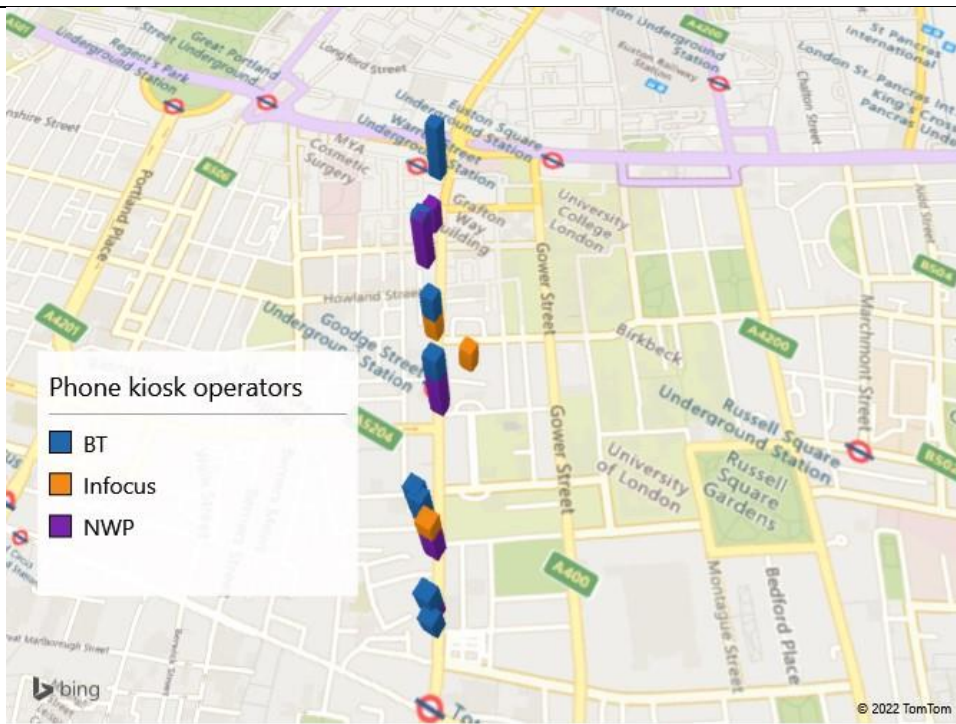
“(2) Class A(a) and Class A(c) development is permitted subject to the condition that any apparatus or structure provided in accordance with that permission shall be removed from the land, building or structure on which it is situated:

...

(b) in any other case, as soon as reasonably practicable after it is no longer required for telecommunication purposes,

and such land, building or structure shall be restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.”

There are currently 32 public call boxes within Tottenham Court Road, as shown on the plan below. BT, Infocus and New World Payphones have a number of public call boxes within the street, of which all are in close proximity of each other.



Date of inspection	Address	Condition	Working ?	Others	Advertisement
22/11/2022	39 TCR	Dirty, graffiti, smell of urine			
08/09/2022	39 TCR	Graffiti, prostitute cards, peeling advertisement			
27/08/2022	39 TCR	Graffiti, dirty, smell of urine, litter			
12/07/2022	39 TCR	Graffiti, glue residue			
14/07/2020	39 TCR	Graffiti, extremely dirty, cobwebs, prostitutes' cards, litter			
07/02/2020	39 TCR	Graffiti, extremely dirty, cobwebs, prostitutes' cards, litter			
30/01/2020	39 TCR	Graffiti, extremely dirty, cobwebs, prostitutes' cards, litter			
24/01/2020	39 TCR	Graffiti, extremely dirty, cobwebs, residue of glue			
03/01/2020	39 TCR	Graffiti, extremely dirty, cobwebs, litter, mud, strong smell of urine			
25/10/2019	39 TCR	Excrement, graffiti, very dirty, litter, stickers, cobwebs, mud			

31/05/2019	39 TCR	Graffiti, prostitute cards, strong smell of urine			
24/05/2019	39 TCR	Graffiti, prostitute cards, dusty			
17/05/2019	39 TCR	Graffiti, prostitute cards			
10/05/2019	39 TCR	Dirty, excrement, prostitute cards, graffiti			
26/04/2019	39 TCR	Dirty, graffiti			
05/03/2019	39 TCR	Dirty, prostitute cards, blood			
07/2018	39 TCR	Graffiti			
06/2018	39 TCR	Graffiti, not working – handset damaged (0207 636 1015)	No		
05/2018	39 TCR	Graffiti, no door			

The 2 x public call boxes located pavement outside 39 Tottenham Court Road are operated by BT who have 17 public call boxes in total along Tottenham Court Road.

BT	17 public call boxes
Infocus	4 public call boxes
NWP	11 public call boxes

The Council's investigation into public call boxes commenced as a result of complaints from local groups about the continuing poor condition, lack of appropriate use and the number of public call boxes within Tottenham Court Road.

Planning Contravention Notices were served in 2019 requesting details on the condition, maintenance, complaints and usage of public call boxes for the prior 4-year period. The information demonstrated that there was minimal use of kiosks within the street. Despite the Council bringing the poor usage and condition of public call boxes to the attention of the operator the box remained in position. In February 2022 the Council issued Planning Contravention Notices again in order to have a comprehensive picture of the condition, maintenance, complaints and usage of the public call boxes. The PCN response showed usage has remained very low but maintenance has increased perhaps due to the Council's intervention.

A local group undertook a project to inspect the public call boxes and identify issues from 2018 - 2020. On a number of occasions, they noted the public call box to be dirty, display prostitute cards, graffiti and litter. These issues have persisted as Officers have continued to carry out site inspections. The Council acknowledges that the Operator's PCN response shows they have made improvements to the frequency of repairs and cleaning of the public call boxes however this is not considered to alleviate concerns regarding the low usage of the public call box.

In the High Court decision of *Westminster City Council v New World Payphones Ltd* ([2019] EWHC 176 (Admin)), Ouseley J did not agree that the need for a particular public call boxes is relevant to the right to install it under Part 16. He also rejected the submission that the condition imposed upon the grant of prior approval in paragraph A.2, that the public call boxes be removed when no longer required, imports a “needs test” into the test for prior approval. The Court of Appeal agreed.

However, when considering paragraph A.2, Ouseley J provides clear guidance that ‘it would be straightforward to judge whether a kiosk was required by an operator: it might have no telephonic equipment in it, it might be left unmaintained, unusable or unused’.

Therefore, in assessing whether there is a breach of paragraph A.2, the Council has taken into consider the following:

1. is there telephonic equipment in the public call box;
2. If there is telephonic equipment, is the public call box a) unmaintained, b) unusable (not able or fit to be used) **or** c) unused – We have reviewed whether the kiosk is functioning, the condition of the public call box to determine whether it is useable/fit to be used and assessed call figures to demonstrate whether the public call box is unused and to demonstrate whether the public call box is usable.

In addition, recent appeal decisions (Ref: APP/X5210/W/22/3297273 and APP/X5210/W/22/3297276) regarding the BT public call boxes located outside no. 39 Tottenham Court Road were dismissed on 11/10/2022. The dismissed proposals involved replacing the existing 2 x public call boxes at this location with 1 x BT Street hub with LCD advert screen. The Inspector noted “the existing BT kiosks are dated and in a poor state of repair, with some being covered in graffiti and showing signs of physical damage...the Police say that the area is prone to criminal activity and the main reason why the existing BT kiosks are something of an eyesore is that they have been vandalised and poorly maintained”. The same can be said of NWP public call boxes along Tottenham Court Road, they are mostly in state of disrepair and poor condition which likely attracts antisocial behaviour.

Assessment of breach of condition A.2 - 2 x BT public call boxes on pavement outside 39 Tottenham Court Road

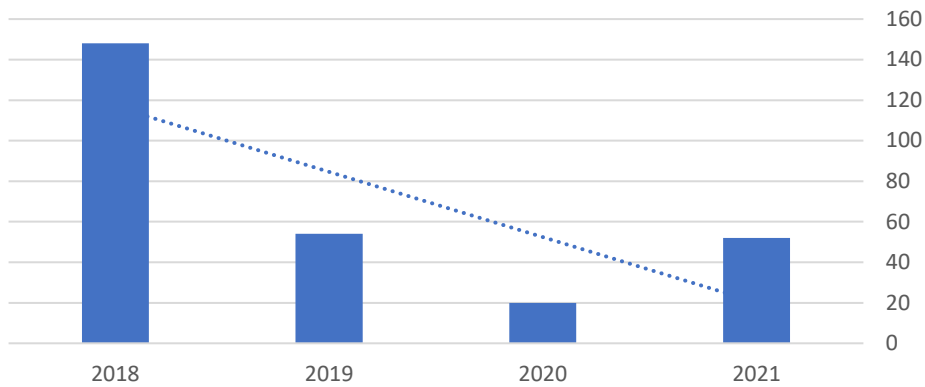
The following assessment centres on the usage of the public call box and its condition.

Assessment of usage and condition of the BT public call boxes on pavement outside 38 Tottenham Court Road

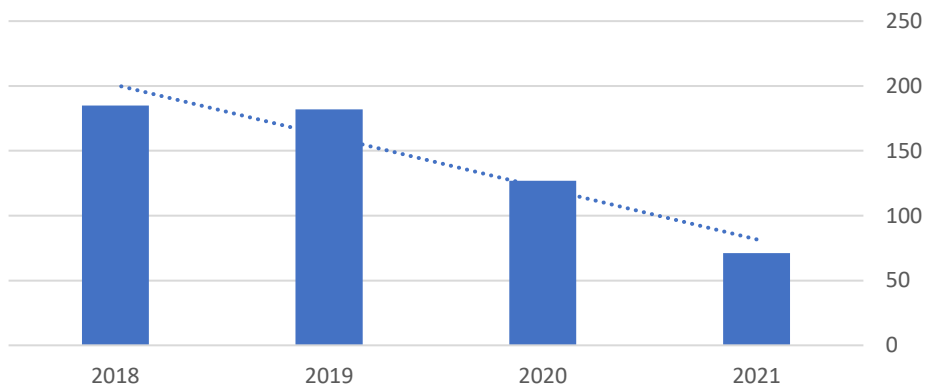
Working telephonic equipment	Yes
Public call box unmaintained	There have been frequent reports of poor condition with the public call box containing graffiti, prostitute cards, excrement and smelling of urine
Unusable (not able or fit to be used)	Due to the condition and clear signs of ASB it is not considered to be fit to be used. This is demonstrated by the low call figures. The fact the public call boxes are dirty and contain prostitutes cards demonstrates they are not fit to be used.
Usage	5.7 calls per month on average/68.5 calls per year* (19/0967 - 0207 636 1761) 11.8 calls per month on average/141.3 calls per year* (19/0966 - 0207 636 1015)

*Average taken from data from 2018-2021 provided by the operator in response to PCN

Annual Call Volume
 BT Public Call Box (EN19/0967 - 0207 636 1761)
 o/s 39 Tottenham Court Road



Annual Call Volume
 BT Public Call Box (EN19/0966 - 0207 636 1015)
 o/s 39 Tottenham Court Road



The public call boxes have call numbers of just 52 (19/0967 - 0207 636 1761) and 71 (19/0966 - 0207 636 1015) calls made for the year 2021. The bar charts above show the annual calls for both calls boxes has declined with the lowest figures for 2021. The public call boxes are frequently plagued with graffiti, dirtiness, smelling of urine, litter and eliciting prostitution.

It is considered that the display of advertisement is the only real purpose for the public call box with such low use to be retained by the Operator. In this circumstances the public call boxes are considered to be no longer required for **electronic communications purposes and the failure to remove it is contrary to the requirements of Condition A.2**

On 8th June 2022 Ofcom (communications regulator for public call boxes (PCB) in the UK) published updated guidance for service providers in relation to the removal of public call boxes at 'Last-at-a-Site' PCB locations. 'Last-at-a-Site PCB' is described as a Public Call Box whose removal or relocation would result in the removal of all Public Call Boxes from the relevant Site. Although this guidance does not relate to the Council's statutory duties pursuant to the planning regime, it is worth noting that the removal of this phone box is not a Last – at a Site location. Furthermore, in serving this Breach of Condition Notice, it is not the Council's intention to remove all public calls boxes from Tottenham Court Road. The over provision of phone call boxes has resulted in clutter, hot spots for ASB behaviour and eliciting prostitution. The Council is of the view, that the removal of the public call box in question would not disadvantage the end user or the provider in terms of the provision of public call box services.

The Criteria for BT and KCOM to assess whether a Last-at-a-Site PCB (albeit this is not a Last-at-a-Site PCB) can be removed is set out below

Under Condition 3.3 BT and KCOM may only remove or relocate a Last-at-a-Site PCB where all of the following Removal Criteria are met:

- a) all UK-wide mobile network operators have coverage at the Site;
- b) the Site is not a high frequency accident or suicide location;
- c) fewer than 52 calls were made from the last at a site PCB in the 12 months prior to the start of the relevant Representation Period; and
- d) there is no other evidence of a reasonable user need for that PCB

Although this is not planning guidance, it is instructive to cross refer to it. It is worth noting that Tottenham Court Road is served by all UK wide mobile network providers (albeit as noted above this is not a Last-at-a-Site PCB in any event), is not considered a high frequency accident or suicide location. The public call boxes have call numbers of just 52 (19/0967 - 0207 636 1761) and 71 (19/0966 - 0207 636 1015) calls made for the year 2021 with this figure showing a pattern of decline as shown by the bar charts above. There is no other evidence of reasonable user need for this public call box which would justify it remaining in place.



Site photograph taken 22nd November 2022 showing the call box to be dirty and contain graffiti.



Site photograph taken 22nd November 2022 showing the proximity of the public call boxes to other public call boxes and street furniture (2 x BT public call boxes the subject of this notice are in the middle, to the left are 2 more BT public call boxes and to the right a NWP public call box).



Site photograph taken 8th September 2022 showing prostitute cards.

The complaints that have been received from local groups about the public call box range from public call boxes containing graffiti, dirty and prostitutes cards on a frequent basis between 2018 -2020. The issues have persisted as evidenced by the Officers site inspection carried out by the Council. The Council's designing out crime advisors outlines that public call boxes become magnets for crime and anti-social behaviour and that the issues which surround them range from the placement of prostitute cards, graffiti, public urination, criminal damage and a location where Class A drugs misuse can occur.

In an Appeal decision ref: APP/X5210/W/20/3253878 and 3253540 (in relation to a proposed public call box outside 216-217 Tottenham Court Road) the Inspector noted *'the appellants' proposed maintenance regime would be likely to reduce the effects of such ASB. However, the form of the structure provides a degree of screening for such behaviour and would be likely to encourage it'*.

The ASB experienced with this public call box is stemmed from its lack of use and design which provides screening and encourages such behaviour.

In conclusion, it is considered that the public call boxes is no longer required for electronic communication purposes. A breach of condition A.2 has taken place which was brought to the providers attention in 2019, 2021 and 2022. The operator has failed to remove the public call box or demonstrate why it is not currently practicable to do so. For these reasons the public call box is considered to be an unauthorised structure.

Expediency of enforcement action

An assessment is made below against planning policy and guidance as to whether it is expedient to take formal action against the unauthorised structure. There have been a number of appeal decisions on kiosks within Tottenham Court Road, the Fitzrovia Action Plan has been adopted and work on the West End Project has sought to declutter the street.

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

D2 (Heritage) aims to resist development outside of a conservation areas that causes harm to the character or appearance of that conservation area.

Camden Planning Guidance (CPG) Design advises 'the design of streets, public areas and the spaces between buildings, needs to be accessible, safe and Visual Amenity ASB

The Fitzrovia Area Action Plan (2014) seeks to make more effective use of highway space to augment public open space in the area through reducing street clutter along Tottenham Court Road ensuring a generous width of pavement. The public call box, which is no longer required is of poor design which detracts from the visual amenity of the wider streetscene and adding unnecessary clutter to the street.

The public call boxes are considered unsightly additions which are located in the middle of the footpath and add unsightly visual clutter to the pavement in addition to the proliferation of other public call boxes and street furniture in this location.

The public call boxes are positioned in close proximity to the Grade II listed no.20 Percy Street. The public call boxes are considered to have a less than substantial impact on the Grade II listed building. Given the limited usage of the public call boxes it is considered that there is no public benefit to outweigh the harm caused.

Pavement width/clutter – The public call boxes are located in a high footfall area in Central London, one of the busiest pedestrian corridors in the borough, next to Warren Street, Goodge Street and Tottenham Court Road Station, where pedestrian volumes are forecast to increase significantly when Crossrail services become operational (forecast for 2022) and would increase further following the introduction of High Speed 2 (HS2).

National Planning Policy Framework (NPPF) aims to keep telecommunication sites to a minimum and encourage applicants to explore shared facilities. Policy D7 (Public Realm) of the New London Plan (Intend to publish) 2019 states that 'Applications which seek to introduce unnecessary street furniture should normally be refused'.

In addition to concerns about the infrequent use of public call boxes due to the prevalence of mobile phone use, the public call boxes results in the loss of public space, acts as a hindrance to pedestrian movement, adding further clutter to the streetscene rather than providing a public service for the benefit of highways users, contrary to Policy A1.

Crime - public call boxes in Tottenham Court Road have become focal points for anti-social behaviour due to their poor design and lack of maintenance.

Policy C5 of the Camden Local Plan, the Council requires development to incorporate appropriate design, layout and access measures to help reduce opportunities for crime. As such, careful consideration needs to be given to the design and location of any street furniture or equipment in order to ensure that they do not obscure public views or create spaces that would encourage anti-

social behaviour (ASB). Camden Planning Guidance (CPG) Design in Paragraph 7.42 states with regard to public call boxes in particular that, '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.'

A number of issues have been raised by the Metropolitan Police. In particular existing public call boxes within the London Borough of Camden have become 'crime generators' and a focal point for anti-social behaviour (ASB). CPG (Design) states that "designs should seek to maximise views into and through the phone box and along the footway." The solid panel and advertisements screen views through and the smell of urine, graffiti and calling cards present in the booths are physical indicators of the ASB taking place due to the presence of this public call box.

Recommendation: Breach of Condition notice to be served for each phone call box:

The notice shall allege the following breaches of planning control: Breach of condition A.2 (2) of Part 24 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

What you are required to do:

- 1) Completely remove the public call box; and
- 2) Make good the pavement to match the surrounding surface

PERIOD OF COMPLIANCE: 1 month

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

The public call box is no longer required for telecommunications purposes and has not been removed in breach of condition A.2 (2) of Part 24 Class A to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.