

Appeal against the Bury Metropolitan Borough Council's refusal of Full Planning and Consent to Display Advertisements

Appeal Site:

Pavement o/s 15 The Rock, Bury, BL9 0JP (E380517, N410861)

Our BT Street Hub Ref:

BRY004

Council LPA Ref(s):

68443 - Appeal A

68444 - Appeal B

Proposal:

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

Associated BT Public Kiosk Removals:

Pavement o/s 13 The Rock, Bury, BL9 0JP (E380518, N410856)



Image 1 – Existing



Image 2 - Photomontage

Appendix

Appendix A – Application forms

Appendix B – Developer's Notice

Appendix C – Planning and design drawings

Appendix D – Full Planning application Decision Notice

Appendix D – Full Planning Officers Report

Appendix E – Advertisement application Decision Notice

Appendix E – Advertisement Officers Report

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

Appendix G – WiFi Marketing_ What It Is and How Retailers Can Use It

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

Appendix I – Appeal Ref: APP/N5660/W/18/3199793.

Appendix J - LPA Ref. 132472/FO/2021 Officers Report

Appendix K – Appeal APPZ4310W183205104 and APPZ4310W183205102 Church Street (Outside No.1-5 Forever 21) by Inspector A McGlone

Introduction

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

The BT project to replace the existing estate of telephone kiosks in the Bury area has been ongoing on a national basis for over 5 years. A pre-application consultation email was sent to Bury Borough Council on 04th and 21st October 2021 which introduced the project and 10 potential BT Street Hub locations across the Borough, with the Council's response being received on 28th March 2022 (Ref 02675E).

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

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

A combined application for planning permission and consent to display advertisements was submitted to the Council on 12th May 2022 (Appendix A and C), where applications ran in parallel and were refused on 11th August 2022. The appellant's statement of the case in support of the applications is outlined below.

The Positive Case for Street Hub

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

It is important to note from the outset that this appeal forms part of an overarching project to remove a significant number of the existing BT kiosks in the Bury area, which have fallen into disrepair and improving the public realm by upgrading them with the modern Street Hub. We would also respectfully highlight that the benefits of the proposed Street Hub extend beyond the provision of free Wi-Fi. A busy and vibrant town centre will always benefit from greater investment in the provision of this service as the more people use it, the capacity available will inevitably dissipate. In terms of the future, BT's full fibre solution allows capacity upgrades by orders of magnitude (e.g. 1Gbps to 10Gbps) without street works which is a significant benefit that locally provided services would not be able to provide.

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

National Planning Policy Framework 2021

10. Supporting high quality communications

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

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

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

12. Achieving well-designed places

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

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

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

'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

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

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

Bury Local Plan Policy Directions

The current local policy is the Bury Unitary Development Plan (adopted August 1997), which will be the basis for determining the appeal and will be addressed in greater detail below in the reasons for refusal. However, the Council are currently preparing the Bury Local Plan which is a material consideration. Whilst the impact will be discussed in greater detail in the reasons for refusal, we would highlight the following policies that the Street Hub would support and help to achieve.

Policy Direction OP1 Sustainable Development.

3.5 Sustainable development has economic, social and environmental dimensions and is about positive growth and making economic, social and environmental progress for this and for future generations.

3.6 From an economic perspective, the Plan should contribute towards building a strong, responsive and competitive economy, by ensuring that the plan meets development needs and supports growth and innovation through the provision of an appropriate supply of land for economic development.

3.7 Socially, the Plan should include policies and proposals that are designed to support strong, vibrant and healthy communities meeting housing needs and create a high-quality and accessible built environment.

3.8 Environmentally, the Plan should contribute to the protection and enhancement of natural, built and historic assets, the improvement of air quality, reduced carbon emissions and adapt to the cause and effects of climate change.

3.9 Policy Direction OP1 reflects the Council's commitment to the delivery of sustainable development by contributing to a strong, competitive and responsive economy; supporting strong, vibrant and healthy communities; and contributing to the protection and enhancement of the natural, built and historic environment. It reflects the fact that the Council will operate a presumption in favour of sustainable development unless there are adequate reasons to justify why this should not be the case.

We would contend that the removal of payphone kiosks that no longer provide their optimum level of public benefit with Street Hubs that provide benefits that the modern society requires. The economic benefits provided by improved telecommunications equipment is something that is never going to be immediately available, although the impact of the industry over the last 3 decades is immeasurable. What is clear, is that when telecommunications services are provided or improved, it encourages more people to visit which creates demand for local services and the economy will therefore grow. For instance, free WiFi, consciously or not, is something that improves the quality of experience in a town centre. If the experience is positive, people will return and this is something that Street Hub contributes to. The use of Street Hub units from throughout the UK and other major cities such as New York has been shown to greatly improve the visitors experience. Please refer to Appendix F or the link below.

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

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

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

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

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

Policy Direction OP2 Health and Wellbeing.

The policy would include measures that seek to alleviate some of the Borough's key health and wellbeing issues, such as promoting active travel.

3.12 It is widely recognised that planning can have a significant impact on health and wellbeing and planning should take account of and support local strategies to improve health, social and cultural wellbeing for all, including through the reduction of pollution and improved air quality. National guidance requires local planning authorities to ensure that health and wellbeing, and health infrastructure are considered in local plans and in planning decision-making.

3.13 Some of Bury's key issues regarding health and wellbeing are associated with inequalities in life expectancy and health and significant levels of obesity and physical inactivity amongst the Borough's residents.

Policy Direction OP4 Air Quality and Pollution Control.

3.20 If pollution is not adequately controlled, it can have negative consequences socially, environmentally and economically. Consequently, controlling potential sources of pollution is an important aspect of sustainable development. Pollution can have significant consequences for human health and amenity as well as natural resources and uses that are sensitive to the effects of pollution.

3.21 As a result, it is important that pollution is given thorough consideration through the planning process both in terms of the potential impacts that may Bury Local Plan Policy Directions (October 2018) 18 arise from the development as well as assessing whether new development would be subject to unacceptable levels of pollution from other sources.

Policy Direction AC1 Connectivity and Accessibility.

10.5 The Local Plan has a central role in delivering the Government's objectives for an integrated approach to land use and transport planning. It can actively manage the pattern of growth and development to encourage more sustainable transport choices such as the use of public transport, walking and cycling as realistic alternatives to the motor vehicle.

The development will contribute to the Council's wider targets to increase active travel modes, including walking and cycling with functions that the Street Hub universally offers to the general public for free, such as the Wayfinding function. It is argued that this is a feature already available to people who have smartphones, but this is not the case if a person does not have a phone or available credit to use cellular services. The link below expands on this by noting '*proponents of wayfinding argue that focusing on an app can rob pedestrians of the full sensory experience of walking – the sights and sounds, colours and smells of a neighbourhood, the texture of the surfaces, and how the surroundings make them feel*'.

<https://theknowledgeexchangeblog.com/2019/10/14/reading-the-city-wayfinding-is-about-more-than-getting-from-a-to-b/>

On this basis, the Street Hub offers services that encourage those who wish to use public transport, or cycle and walk as an alternative means of travel throughout the local area. When more information is made available, people who would otherwise be hesitant will be encouraged to explore further into the local area, especially when experience becomes integrated with free Wi-Fi to make bookings for entertainment such as restaurants and cinemas. Not only will this encourage sustainable travel, but it will also contribute to and support the local economy.

Policy Direction IN3 Digital and Communications Infrastructure.

14.14 High-quality electronic communications infrastructure, including high-speed broadband access, is essential for developing a sustainable local economy and is important for education and enhances the provision of local community facilities and services. It is also vital for home working and helps to reduce the need to travel and to create more resilient rural communities as it enables more efficient working practices and the provision of online facilities and services.

14.15 In terms of telecommunications infrastructure, it is proposed that the policy should specify that developers should aim to minimise the number of masts and explore the potential for utilising existing structures before considering the erection of a new mast. Where this is not possible and new equipment is required, the Council will expect this to be sympathetically designed and, where possible, camouflaged in order to minimise its visual impact.

Policy Direction IN4 Public Utilities Infrastructure

14.18 The implementation of the Plan is dependent upon effective public utilities infrastructure (i.e. gas, water and electricity). It is recognised that this can only be achieved by a continuing programme of investment involving the rationalisation and improvement of existing operational sites and/or the development of new facilities.

As outlined above, the proposal will play an important role in providing digital services to the Bury area, through free high-speed Wi-Fi and improved 5G cellular services. As a free service to use, it will represent an effective community facility with services available to everyone. The proposal also meets

the criteria for the policy by using existing sites for payphone kiosks where possible and removing redundant units that no longer meet the criteria that justify their continued presence.

With regard to IN4, we would wish to highlight that telecommunications is also a public utility and therefore the proposal falls within this remit.

Bury Town Centre Evening and Night Time Economy Strategy and Action Plan

2.24 The Bury Evening and Night Time Economy Strategy and Action Plan (March 2016) includes a Vision that 'The Evening and Night Time Economy will enhance Bury Town Centre, helping to create a stimulating destination providing a safe, secure environment, with a vibrant choice and rich mix of entertainment and activity. The offer will change seamlessly throughout the evening, appealing to a range of age groups, including families, and will be accessible to all, whilst protecting the quality of life for residents and the interests of other businesses'.

The Street Hub will actively contribute toward the objectives through the services that it will provide. It will assist in providing information regarding efficient movement, managing late night transport with convenient directions, providing information to assist in minimising conflict between pedestrians and vehicles. It also has the means to provide practical information and guidance to town centre users at night.

The Street Hub will also assist in achieving the objective of creating a sense of Place with a stimulating destination that has well-designed links and visible signs. The modern design will also be an attractive addition to the public realm that contributes to a sense of being a well used public place, with active streets and buildings.

There is also a sense of safety that a facility that not only provides free Wi-Fi but also free calls and immediate access to the emergency services can provide, which also helps to achieve the goal of a friendly family-orientated environment. We also recognise that the vitality and vibrance of town centres is also provided by the night-time economy and the features of the Street Hub are equally as important to meet this use.

Healthy Streets Approach

One of the aims of the Street Hub project is to improve the public realm and in doing so it aligns itself with the goals of the Healthy Streets Approach, which is a human-centered framework for embedding public health in transport, the public realm and planning. The 10 Healthy Streets Indicators focus on the human experience needed on all streets, everywhere, for everyone with the most pertinent to the proposal outlined below:

- *Everyone feels welcome - Streets must be welcoming places for everyone to walk, spend time and engage with other people. This is necessary to keep us all healthy through physical activity and social interaction. It is also what makes places vibrant and keeps communities strong. The best test for whether we are getting our streets right is whether the whole community, particularly children, older people and disabled people are enjoying using this space.*

One of the defining features of the Street Hub is that it is designed to be accessible and ready to use to use for everyone, including those with mobility, visual or hearing disabilities which is something that the existing estate of BT kiosks are not. New and vibrant technology will always attract people and the Street Hub will contribute to everyone being able to enjoy the area to its full potential.

- *People choose to walk & cycle - We all need to build regular activity into our daily routine and the most effective way to do this is to walk or cycle for short trips or as part of longer public transport trips. People will choose to walk and cycle if these are the most attractive options for them. This means making walking and cycling and public transport use more convenient, pleasant and appealing than private car use.*

One of the primary issues that deters people from walking, in particular, is the concern that they do not know to navigate areas that are unfamiliar to them. The world-class wayfinding feature of the Street Hub provides accurate and simple directions that allow pedestrians to find their destination.

- *People feel safe - People also need to feel safe from antisocial behaviour, unwanted attention, violence and intimidation. Street lighting and layout, 'eyes on the street' from overlooking buildings and other people using the street can all help to contribute to the sense of safety.*

One of the unfortunate consequences of the existing BT kiosk estate falling into disrepair is that they can become magnets for antisocial behaviour. The proposed Street Hub seeks to prevent this by removing existing kiosks and implementing the Anti-Social Behaviour Management Plan to prevent the new development from repeating the mistakes of the past. The proposed Street Hub also has easily accessible features to contact the emergency services and also free Wi-Fi and charging facilities that ensure that users can always be able to use their device.

- *Things to see & do - Street environments need to be visually appealing to people walking and cycling, they need to provide reasons for people to use them – local shops and services, opportunities to interact with art, nature, other people.*

One of the innovative features of the wayfinding facility is that it will highlight points of interest that people who are unfamiliar with the area such as tourists may be aware of. This includes local shops, services and attractions that are off the beaten track that people might not otherwise experience.

- *People feel relaxed - The street environment can make us feel anxious – if it is dirty and noisy, if it feels unsafe, if we don't have enough space, if we are unsure where to go or we can't easily get to where we want to. All of these factors are important for making our streets welcoming and attractive to walk, cycle and spend time in.*

All of the points outlined above will help people feel relaxed and ultimately make the public realm more attractive.

<https://www.healthystreets.com/what-is-healthy-streets>

Appeal Introduction

This appeal considers that it is of the utmost importance to highlight that BT has an Electronic Communications Code license and Universal Service Obligation (USO) governed by Ofcom to provide and maintain publicly accessible call boxes on the street, irrespective of whether or not there is a perception that they are used or not. We would refer to the links below, which outline BT's license obligations in terms of the USO.

https://www.ofcom.org.uk/data/assets/pdf_file/0021/34266/statement.pdf

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

Whereas 30 years ago, BT's public obligation was to provide access to universal communications by the means of a landline telephone. In 2022, the nature of telecommunications has changed and the public service is Wi-Fi, free telephone calls and the other functions that the Street Hub will provide. We consider that BT's agreement with Ofcom addresses this issue, as the proposal is to replace existing BT kiosks and that the proposal should not be refused on this basis.

LPA Ref. – 68443 (Consent for Full Planning Permission) Appeal A

“1. The proposed siting of the BT Hub would be seriously detrimental to the visual amenity of the street scene, nearby occupiers and pedestrians by reason of its siting on the adopted pedestrianised highway and would cause pedestrian movement conflict and conflict with desired sight lines. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EN1/1 - Visual Amenity, EN1/2 - Townscape and Built Design, EN1/4 - Street Furniture, EN1/10 - Telecommunications, HT5/1 - Access for those with Special needs and HT6/1 - Pedestrian and Cyclist movement”.

Street Hub is a modern form of development, and in many ways its innovative design attributes reflect the technological advancements within the field of electronic communications over the course of the last decade.

The Street Hub's modern and streamlined appearance will represent a significant improvement on the outdated and visually uninspiring kiosks that are to be replaced. It is contended therefore that the proposal fundamentally seeks to improve the amenity of this section of The Rock, in keeping with the busy nature and character of its wider context as a transport hub. In addition, given that there is the likelihood that the existing kiosks could fall further into disrepair and no longer meet the functionality requirements expected by modern society, their removal will demonstrably improve amenity.

We would add that amenity can also mean a desirable or useful feature or facility of a building or place. We would be confident that the Street Hub would be openly welcomed in the area given the features that it offers and that it would create an improved sense of vibrance and vitality. As we discussed in the positive assessment of the proposal and supported by Appendix F, G and H, the proposed Street Hub will improve the attractiveness of the street scene amenity for users and the improvement of choice for travel options will be facilitated by the Wayfinding and free Wi-Fi services provided.

The presence of the existing digital advertising unit is noted and we would contend that as an accepted item of street furniture, it provides context and precedent for the appropriate nature of this type of development in the immediate area. The concern regarding the proliferation of digital advertising is noted, however we would direct the Inspector to the fact that the proposal is to remove 2no existing

payphone kiosks that all accommodate advertising features. Whilst we accept that they are not digital, they are still adverts and we would ask that this is treated as a material consideration that do not represent proliferation. Furthermore, the removal of 2no payphone kiosks and installation of the Street Hub at its streamlined location actively improves the visual amenity of the immediate area.

This position is supported by appeal Ref: APP/N5660/W/18/3199793 (Appendix I) for a similar proposal, where the Inspector noted that *'with the modest scale of the proposed InLink unit I find it difficult to accept the argument that the development would be perceived as having an adverse effect on visual amenity.'*

In terms of the local plan policy, we would address each as follows;

EN1/2 - Townscape and Built Design. *The Council will give favourable consideration to proposals which do not have an unacceptable adverse effect on the particular character and townscape of the Borough's towns, villages and other settlements.*

Factors to be considered when assessing proposals will include:

- *the external appearance and design of the proposal in relation to its height, scale, density and layout* – In order to accommodate the equipment necessary to provide the immediate and future benefits to the area as previously outlined including the advertising feature, the unit has to be the height and design that is proposed. This is because the proposed Street Hub accommodates 5G small cell antennas and the height is required to comply with the ICNIRP safety guidelines.
- *the relationship of the proposal to the surrounding area* – The proposed location is within a major town centre that is pedestrianised and forms part of a major transport hub. The area is overwhelmingly commercial and there are many existing examples of similar advertisements, including the existing kiosks that are to be replaced, albeit they are not digitised. As such, the proposal's relationship conforms with the surrounding area.
- *the choice and use of materials* – The Street Hub is designed with modern and durable materials that are built to assimilate into busy commercial town centres such as Bury.
- *access and other design features for the mobility impaired* – The proposal involves the removal of 2no existing payphone kiosks and will demonstrably improve access for all users of the town centre. With regard to the proposed Street Hub, the Product Statement outlines that *'Street Hubs have been designed to be accessible to all users, regardless of their physical or technological capabilities, including the tablet interface being placed at 1m to provide easy access for wheelchair users.'*

EN1/4 - Street Furniture. *The Council will encourage the provision of suitably located and well-designed street furniture which satisfies the requirements of pedestrians, shoppers and other users, and enhances the character and appearance of the urban street scene, including open spaces.*

In particular, the Council will seek to ensure that the siting and design of street furniture satisfies the following considerations:

- *meets the needs of all users including the mobility impaired, in terms of safety and adequacy;*
- *does not detract from highway safety;*
- *does not interrupt main pedestrian flows or hinder access for emergency vehicles;*

- *reflects the traditional design and materials in the locality, is of robust construction and does not detract from the amenity and appearance of the street scene.*

The majority of these points have been addressed as part of our assessment of Policy EN1/2. However it should be noted that as a pedestrianised street, the proposal will not detract from highway safety and access overall will be improved.

HT5/1 - Access for Those with Special Needs The Council will encourage the provision of satisfactory access to public transport, car parks, pedestrian areas and public and private buildings for the mobility impaired and those with special needs.

The interpretation of this policy and show the proposal aims to support it have been addressed as part of our assessment of Policy EN1/2. However, it is felt that a modern and accessible feature that would equally benefit those with impaired mobility would be supported by those who this policy intends to address.

HT6/1 - Pedestrian and Cyclist Movement. The Council will seek to ensure that pedestrians and cyclists are able to move safely and conveniently. This can be achieved by:

- *eliminating points of conflict between pedestrians/cyclists and motor vehicles.* The proposed location does not affect or create conflict with motor vehicles and pedestrians or cyclists.
- *providing direct and convenient routes.* The offer of a modern and free wayfinding service will assist in guiding those unfamiliar with the area to direct and convenient routes to their destination.
- *ensuring that routes are well lit and clearly signed;*
- *extending pedestrian areas, especially in Bury town centre and other district or local centres, where appropriate;*
- *ensuring that all proposals for development recognise the needs of pedestrians and cyclists.* The proposal will introduce a feature that will directly benefit pedestrians and cyclists, with the minimum impact possible.
- *making exemptions for cyclists in Traffic Regulation Orders and pedestrianisation schemes, where appropriate;*
- *providing secure cycle parking and identifying cycle routes, including recommended routes and cycle lanes through busy urban areas, where appropriate.* Wayfinding services will directly provide this information.

With regard to policy EN1/9, this relates to advertising and will be addressed directly in Appeal B.

EN1/10 – Telecommunications. The Council will give favourable consideration to proposals for new telecommunications developments. In assessing such proposals the Council will have regard to the following:

- *the operating requirements of available and new telecommunications technology, and the national telecommunications network.* The refusal of the proposed development is contrary to this policy, given that payphone kiosks are no longer actively deployed by BT. The Street

Hub is clearly new technology that BT is deployed to replace the aging payphone kiosk estate in order meet the needs of the community and its obligations under the USO with Ofcom.

- *the legal requirements of telecommunications code system operators.*
- *siting and design - including the opportunity for sharing masts or siting on existing buildings, height, ancillary development, landscaping, screening and the type and colour of materials used.* The site was chosen because it is currently occupied by 2no existing payphone kiosks that the Street Hub will replace.
- *the visual and physical impact, especially on the Green Belt, river valleys, Special Landscape Areas, Listed Buildings, Conservation Areas, ancient monuments and archaeological remains.* The proposed site is not located within or in close proximity to any heritage assets, although it is noted that the site is near the Bury Town Centre Conservation. We would reiterate that the presence of the existing 2no kiosks undoubtedly has an adverse impact on the setting of the Conservation Area and the replace with the Street Hub will help improve the visual amenity of the area.

EN1/11 - Public Utility Infrastructure. The development of operational facilities for public utility provision will be permitted where this is necessary to implement the development objectives of this Plan or to meet relevant statutory obligations and environmental standards and is consistent with other policies and proposals of the Plan.

Although not mentioned in the reason for refusal, we would wish to highlight this policy as it is important to note that BT is a provider of Public Utility Infrastructure who are seeking to meet their statutory obligations.

We would therefore refer to the central theme in support of the scheme, that the proposal fundamentally seeks to improve the amenity of this section of The Rock, in keeping with the bustling and vibrant character of its wider context. On this basis, we would argue that the proposed Street Hub is not detrimental to the character and amenity of the street scene and public realm. The appeal site is found on a well-lit, pedestrian area within the setting of a transport hub that is ideally suited for this type of development.

"2. The proposal would result in an unnecessary obstruction of the existing emergency access route and adopted highway and the creation of additional street clutter for an installation that primarily consists of an advertisement screen that is not a direct replacement for the adjacent telephone kiosks, and without agreement for the placement of such equipment on the adopted highway with the Highway Authority, which would be detrimental to pedestrian safety, maintaining existing pedestrian desire lines on The Rock and contrary to the active travel aspirations of the Council. The proposal would conflict with the following adopted policies of the Bury Unitary Development Plan: EN1/4 - Street Furniture, EN1/10 - Telecommunications, HT5/1 - Access for those with Special needs and HT6/1 - Pedestrian and Cyclist movement."

The Council states that the proposal will create an unnecessary obstruction, but we would again stress that the proposal is a means for BT to meet their obligations under the USO with Ofcom to provide a universally available service at this location. We would contend that the intention of the proposal is to comply with the requirements of the USO between BT and Ofcom by locating the required services in an area that would be of most benefit to the public. The reason for refusal also states that the proposal will also create additional street clutter, but this is clearly not the case given that the proposal involves the removal of 2no existing payphone kiosks.

In order to put this into context, the replacement of the existing kiosks which are smaller in height but take up a significantly greater amount of combined footpath space (1.58 square meters) compared to the Street Hub (0.43 square meters). We would also highlight the difference in combined density, as the existing kiosks are considerably larger (3.47 cubic meters) compared to the Street Hub (1.29 cubic meters). For reference, the measurements of the existing kiosk can be found at the following link (<https://www.britishtelephones.com/kxkiosk.htm>). The proposed development therefore will visibly reduce street clutter and will not add or create an increase as stated in the reason for refusal.

The concern regarding the effect that the Street Hub will have on emergency access is noted, however we would note that the proposed development is to be located on the footway of a pedestrianised street and not on the space that is for the use of vehicles. Furthermore, we would wish to highlight that the street at this location is approximately 28m wide and the impact that the proposed Street Hub would have as an 'obstruction' is being overstated. We would contend that the Street Hub would improve the condition of the street in terms of emergency access should it be needed, compared to the existing payphone kiosks.

In addition, in the hopefully unlikely event of a major incident that would cause the need for emergency access or evacuation is required, the Street Hub has the function of being able to provide emergency information that would assist the public in a positive way that could help save lives. This could include precise information regarding the nature of the emergency or appropriate instructions to guide the public away from danger, which can be coordinated with the Council or Emergency Services.

The proposed location was chosen because it was considered to be the safest location that would minimise pedestrian inconvenience. The Council states that the proposal will create an unnecessary obstruction, but we would again stress that the proposal is a means for BT to meet their obligations under the USO with Ofcom to provide a universally available service at this location. The reason for refusal also states that the proposal will also create additional street clutter, but this is clearly not the case given that the proposal involves the removal of 2no existing payphone kiosks. Whilst it is accepted that the proposed kiosks are not direct replacements, the proposal involves the replacement of the two long-established payphone kiosks in the Bury area, which occupy a larger footprint than the proposed development which will visibly reduce street clutter overall.

The proposal represents a new piece of street furniture but given that the pedestrianised street is approximately 14m wide, in the overarching context its impact on pedestrian movement is not significant given that the floorspace it would use is only 0.43 meters squared. The proposed Street Hub is positioned so that the street maintains a clearance of 9.5m on one side to the opposite wall and 3.3m on the other, which is widely regarded as being a suitable distance for people of limited mobility or the 'double buggy' test.

As an example, we would refer to a Street Hub proposal (LPA Ref. 132472/FO/2021 Appendix J) that was recently approved in Manchester outside of a busy city centre store that is more likely to see a larger number of people, including those with mobility issues throughout the day. The Officers Report states *'The BT Street Hub unit retains sufficient footway clearance (as depicted on drawing titled Proposed Site Plan Man036B No002A) and therefore does not obstruct pedestrian movement including buggies and restricted mobility/wheelchair users. The unit does not obstruct vehicle or pedestrian sight lines and does provide adequate clearance from the carriageway.'*

It is the position of this appeal that contrary to the point in the reason for refusal, the proposal is not primarily a freestanding advertisement, especially when compared to the existing Clear Channel unit close to the proposed site. The Street Hub is a modern multi-functional communications kiosk that incorporates advertising in a similar manner to the bus shelters in the immediate area to fund the free-to-use services provided. The de-cluttering of the street scene, the installation of a sustainable modern facility and the services it will provide is the purpose of the project and is therefore acceptable.

The reason for refusal also states that the proposal is not a direct replacement, which in the strictest interpretation is true. However, the proposed location was chosen because it was considered to be the safest location that would minimise pedestrian inconvenience. With regard to the existing payphone kiosk, the location was considered to be positioned between the footway edge and a tree that actively restricts pedestrian access at present. The 2no kiosks that are closer to the proposed Street Hub location are adjacent to a handrail which would detrimentally affect access and cause a greater inconvenience to users of the footway.

The Officers Report outlines the following objection from the Traffic Section and is referenced in the reason for refusal - *'without agreement for the placement of such equipment on the adopted highway with the Highway Authority, which would be detrimental to pedestrian safety, maintaining existing pedestrian desire lines on Rock Place and contrary to the active travel aspirations of the Council.'*

We would first like to respectfully clarify that under the terms of the Electronic Communications Code 2003, BT as a public utility provider and Code Operator with the right to place its equipment on the adopted highway, subject to the statutory notification being given to the highway's authority.

<https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/policy/electronic-comm-code>

With regard to the detrimental impact to pedestrian safety, we would highlight that the proposal is located on a pedestrianised street and there is no obvious issue that would warrant the refusal of the application. The proposed Street Hub will replace existing street furniture that causes an actual impediment to pedestrian travel which in itself is a justification for the proposal. The pedestrianised street is approximately 15m wide and there is no evidence, on which such reasons for refusal should be based on, to suggest that the proposal force pedestrians onto the road or that the luminance levels based on ILP recommendations would cause a distraction. We would therefore request that the Inspector treat this point with the relevant weight in their consideration.

This point is supported by Appeal ref APP/Z4310/W/18/3205104 (Appendix K) where in the context of the decision, the Inspector notes that *'I do not have any details of the number, type or frequency of vehicles using Church Street during the controlled period, but there is no substantive evidence which says that the shared use of this space currently presents any highway safety issues.'*

The development will contribute to the Council's wider targets to increase active travel modes, including walking and cycling with functions that the Street Hub universally offers to the general public for free, such as the Wayfinding function. On this basis, the Street Hub offers services that encourage those who wish to use public transport, or cycle and walk as an alternative means of travel throughout the local area. When more information is made available, people who would otherwise be hesitant will be encouraged to explore further into the local area, especially when experience becomes integrated with free Wi-Fi to make bookings for entertainment such as restaurants and cinemas. Not only will this encourage sustainable travel, but it will also contribute to and support the local economy. On that basis, the proposal actively supports policy HT6/1.

Conclusion

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

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

BT considers that the primary role of the project is to replace an aging estate of existing kiosks, whose removal will improve the public realm while meeting their obligations under the terms of the USO. Whilst there are concerns regarding the Street Hub, this is based on the negative experience of the existing kiosks and not the very real benefits that the proposal will provide. The de-cluttering of the street scene, the installation of a sustainable modern facility and the services it will provide will all contribute to the goal of improving the public realm and amenity of pedestrians. The advertising screens are a prominent feature, but the Street Hub was designed in alignment with other advertisement providers, such as JCDecaux, Clear Channel and those found on bus shelters which are found in urban areas throughout the UK. We would also contend that all of the features and benefits provided are of equal importance and each contributes to the success of the Street Hub project.

Therefore, it is considered that there will be less than substantial harm to the character or amenity of the area especially when any potential impact is outweighed by the public benefits of the proposal. Most notably the array of features it offers, as well as securing the appeal site's optimum viable use by replacing existing public call boxes. In this respect, it is concluded that full planning permission should be allowed.

LPA Ref. – 68444 (Consent to Display Advertisements) - Appeal B

“1. The proposed development, due to the siting and position of the proposed Hub within this part of the shopping centre and together with its proximity to pre-existing digital advert signage would result in excessive and over- proliferation of street furniture which would be detrimental to the visual amenities of the area and the appearance of the streetscene. The proposed development would therefore be contrary to Bury Unitary Development Plan Policy EN1/9.”

To avoid repetition, we would refer to our response in Appeal A as to why the proposal does not result in over-proliferation of street furniture or create a detrimental impact on the visual amenity of the streetscape. With regard to the suitability of the proposed advertisement, we would assess the policy as follows;

EN1/9 – Advertisements. *The Council will seek to control advertisements in the interests of amenity and public safety in order to enhance the quality of the Borough's environment. In doing so the Council will have particular regard to the following considerations:*

- *the characteristics of the local neighbourhood, including scenic, historic, architectural and cultural features.* The characteristics of the proposed location have been judged to be a wholly retail and commercial area that adjoins a major travel hub and as such is not considered to be an incongruous feature. Given that the proposal is close to an existing digital advertisement and the existing 2no payphone kiosks that contain adverts, there is clear precedent and the proposed advert will assimilate well into the streetscape.
- *the scale and massing of existing buildings and structures.* The proposed advert is the same size as the existing Clear Channel unit and therefore does not introduce an alien feature in terms of scale and massing. It is unfortunate that the proposed location is close to the existing advertisement, but the site was chosen for the reasons outlined in Appeal A and the impact is considered to be minimal but is outweighed by the benefits that the proposal will provide.
- *the nature of the predominant land use in the locality.* The predominant land use as a town centre is retail and commercial.
- *the presence of Listed Buildings or Conservation Areas.* The site is not located close to any Listed Buildings and is outside of the Bury Town Centre Conservation Area. Although the site is close to the boundary, it is not judged to affect the setting of the heritage asset.
- *any proposals for land use change in the area;*
- *with reference to the countryside, land-form, the quality of immediate surroundings, landscape character and background features;*
- *the effect on the safe use of any form of transport, including the safety of pedestrians.* The proposal is located on a pedestrianised street and the proposal includes the removal of a significant amount of existing street furniture. This represents a reduction in clutter and there is therefore no evidence to suggest that there would be any adverse effect on pedestrian safety.

“2. The proposal would result in an unnecessary obstruction of the adopted highway and have a detrimental impact on pedestrian access on The Rock and would result in the creation of additional street clutter for an installation that primarily consists of an advertisement screen that is not a direct replacement for the adjacent telephone kiosks, and without agreement for the placement of such equipment on the adopted highway with the Highway Authority, which would be detrimental to pedestrian safety, maintaining existing pedestrian desire lines and contrary to the active travel aspirations of the Council. The proposed development would therefore be contrary to Bury Unitary Development Plan Policy EN1/9.”

To avoid repetition, we would refer to our response in Appeal A to the policy and reason for refusal outlined above.

Conclusion

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

It is acknowledged that there is concern over the distance of the proposed advert from the existing unit that contains an advertisement feature. However, the proposed location was considered to be preferable to the position of the existing payphone kiosks and it maintains the integrity of the streetscene while extending the benefits provided by the Street Hub unit.

Whilst it is accepted that the Council does not support this type of development, there has been no definitive evidence produced that supports the position that the proposal would cause harm to the highway and public safety. We would also state that there is a clear precedent for this type of development in the immediate area that has been shown to have limited or no adverse impact.

To that effect, the appeal for consent full planning consent and consent to display advertisements should be allowed.