

## **Appeal Statement**

**Submitted by**

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**Reference: BRY - 112**

**Bury Council**

**Planning Authority Reference: 71502 & 72088**

**Site: Footpath adjacent to 65 – 69 Rochdale Road, Bury, BL9 7AX**

**(NGR: E: 381054, N: 410789).**

**Proposal: Installation of New BT Street Hub and Associated Display  
of Advertisement Panels to Both Sides of the Unit.**

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## 1.0 Introduction

### *The Appeal*

- 1.1 This submission is a view of the planning matters relating to the proposal based on the information provided by third parties. All technical and background information, which forms part of this submission, is assumed to be factually correct and accurate.
- 1.2 Telent has been instructed by BT Plc to appeal against the Council's decision to refuse planning permission (Planning Ref: 71502) and express advertisement consent (Planning Ref: 72088) for the *Installation of 1No. BT Street Hub Unit and associated advertisement panels on either side of the unit*. The applications for full planning and express advertisement consent were refused by the council on the 10<sup>th</sup> June and 11<sup>th</sup> August respectively, for the following reasons:

### Full Planning

1. *The proposal would result in an unnecessary and unacceptable obstruction of the existing adopted highway on the A58 (Rochdale Road) and the creation of additional street clutter for an installation that primarily consists of an advertisement screen, 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 adopted highway on Rochdale Road and contrary to the active travel aspirations of the Council. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*
2. *The proposal would reduce the available width of the existing adopted footway on the A58 (Rochdale Road) to substandard levels, which would be detrimental to pedestrian safety and maintaining existing pedestrian desire lines on the adopted highway on Bury New Road. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5*

*Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework*

3. *The proposed installation would restrict visibility of the signals to the east of the site at A58 Rochdale Road/York Street/Lord Street junction and would pose a distraction to drivers approaching the signalised junction from the west, to the detriment of highway safety and maintaining the free flow of traffic on the adjacent classified road. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*
4. *The proposal would restrict visibility to sub-standard levels to the right at the junction of York Street with Rochdale Road in the event of an 'all red'/signal failure, which would be detrimental to highway safety and maintaining the free flow of traffic on the adjacent classified road. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*
5. *The application and submitted plans contain insufficient information in relation to the removal of existing phone kiosks stated as forming part of and justification for this proposal. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*
6. *The proposed advertisements, by virtue of their illumination, size and siting would appear as an incongruous addition to the street scene which would be severely detrimental to both the appearance of the streetscene and to the general visual amenities of the area contrary to Development Plan Policies EN1/9 - Advertisements, EN1/2 -Townscape and Built Design, EN1/4 - Street Furniture, JP-P1 Sustainable Places and the National Planning Policy Framework.*

7. *The proposed street Hub, by virtue of its siting and position would appear an alien and incongruous addition on the footway and as a result strident in the streetscene which would be severely detrimental to both the appearance of the streetscene and general visual amenities of the area contrary to Policies EN1/9 - Advertisements, EN1/2 -Townscape and Built Design, EN1/4 - Street Furniture, JP-P1 Sustainable Places and the National Planning Policy Framework.*

#### Express Advertisement Consent

1. *The proposed advertisements, by virtue of their illumination, size and siting would appear as an incongruous addition to the street scene which would be severely detrimental to both the appearance of the streetscene and to the general visual amenities of the area contrary to Development Plan Policies EN1/9 - Advertisements, EN1/2 -Townscape and Built Design, EN1/4 - Street Furniture, JP-P1 Sustainable Places and the National Planning Policy Framework.*
2. *The proposal would represent an unnecessary obstruction and reduce the available width of the existing adopted footway on the A58 (Rochdale Road), which would be detrimental to pedestrian safety and maintaining existing pedestrian desire lines on the adopted highway on Rochdale Road. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*
3. *The proposed installation would restrict visibility of the signals to the east of the site at the A58 Rochdale Road/York Street/Lord Street junction and would restrict visibility to sub-standard levels to the right on egress at the junction of York Street with Rochdale Road in the event of an 'all red'/signal failure, which would be detrimental to highway safety and maintaining the free flow of traffic on the adjacent classified road. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*

Appellant's case comprising a number of interrelated sections which will:

- describe the appeal site and surroundings in respect of visual character of the area (Section 2),
- provide a background to the street Hub project for the appeal proposal and general statement in respect of health and safety issues (Section 3),
- describe the regulatory framework and planning policy framework, in relation to the proposal, in terms of both the national and local policy (Section 4),
- focus on the grounds of appeal and the Council's reason for refusal (Section 5), and
- submit our conclusion (Section 6).

1.4 Reference will be made to the background papers that comprise the application and further information attached as appendices to this statement (if applicable), and it may expand on the documentation to support an opinion.

1.5 A separate appeal will be made to the accompanying application refused by the Council at this appeal site.

## **2.0 Application Proposals and Appeal Site Description**

### ***Application Proposals***

- 2.1 The relevant application proposals was for the installation of a new Street Hub with associated display of advertisement on either side of the unit at the location outlined below. In 2017, BT started working as part of an exclusive partnership with InLinkUK to ensure communities in urban areas throughout the United Kingdom are well-served in the digital age through the roll out of 'InLink' units. These were developed and deployed to replace and rationalize the existing network of payphones.
- 2.2 Through collaboration with councils, BT helped in creating a service that revolutionized streetscapes and helped in providing a connected city solution that delivers the fastest and most robust free public Wi-Fi service in the UK. Councils across the UK have used the InLink units to meet key challenges head-on, upgrading local infrastructure, tackling the digital divide, and freeing the street(s) from unnecessary furniture.
- 2.3 Unfortunately, InLinkUK (who were supplying the units to BT within the partnership) went into administration in 2019, and, as such, the InLink product is no longer available. Since then, BT have been working on a new and improved unit - the 'Street Hub'. The Street Hub has all the existing benefits of the previous InLink unit, but has improved Wi-Fi range, environmental sensors, insight counting and small cell mobile connectivity. This addition of the 5G small cells to Street Hubs is very much in line with current UK Government's guidance on communications infrastructure and the National Infrastructure Strategy. Consequently, when installed, residents, local businesses and visitors will get a faster, more reliable connection for calls and internet access
- 2.4 Additionally, these new units will be monitored 24/7, with weekly inspections and a minimum of bi-weekly cleaning services to keep the unit to a high standard of finish within the existing streetscape. All units will be fitted with a direct 999 call button to aid in the efficiency of operations of the emergency services, with emergency (i.e., Police) awareness messaging shown via their advertising screens on either side of the unit. Furthermore, Street Hubs are powered by 100% renewable carbon-free energy, making them sustainable and durable for years to come.

- 2.5 Whilst the main function of the Street Hub is to provide free electronic communications services, the funding of such services, whilst not being at the expense of the public purse, requires commercial viability and this is provided by the advertising revenue from the integrated LED digital screens, one located either side of the Street Hub unit. Separate applications for full planning for the proposed Street Hub unit as well as for express advertisement consent were submitted to the Council and duly refused. The accompanying application refused forms the subject of a separate appeal under the relevant consenting regime, as outlined in the foregoing section.
- 2.6 The location of the appeal site is shown in the drawings forming part of this appeal and as submitted to the Council.

### ***Appeal Site Description***

- 2.7 The application site comprises a wide section of pedestrian footpath to the north side of Rochdale Road, opposite number 60 Rochdale Road and adjacent to an area of land that is used as parking for Back Rochdale Road. The immediate street scene is that of a commercial context, with commercial use at this point before leading west towards what would be considered as the retail centre and whereby the change in setting to an even greater commercial context evident. The street furniture around the area consists mainly of streetlamps, road signs/lights, bins, telecommunication cabinets and bus stops.
- 2.8 The associate advertisements would also be commensurate with the locale, whereby most of the nearby properties all have large advertisements which are very prominent within the streetscene at this point, as well as there being other forms of advertisement nearby including billboards and freestanding units located at bus stops a short distance to the west of the site. The proposed unit, with its modern design and high build quality, will fit within the local character at this point, with the overall land use and commercial context.
- 2.9 The proposal would see the installation of a single Street Hub unit to be located on the section of footpath at the above address. The installation of a Street Hub will support the telephony and wi-fi coverage of the area within a structure of high build quality commensurate with the with the general street scene context of the locale. While it was initially indicated that 2No. existing kiosks would be removed in support of this proposal, it has since come to light that these 2No. existing kiosks located outside 111 The Rock,

The Rock Shopping Centre, were in fact subject to a previous application for the same development and subsequent conversion of these kiosks and installation of a Street Hub, which it is understood has now been implemented. As such, in this instance there are no additional kiosks offered up for removal in support of this appeal proposal, albeit that on its own the removal of any additional kiosk out with the appeal site boundary could not likely be controlled by way of any planning condition and as such the appeal proposal assessed on its own merit.

- 2.10 It should be noted that the application for the associated ADV appeal was re-submitted after the original application (reference 71481) was refused on the 17<sup>th</sup> February 2025. The full planning application remained undetermined and an extension of time was agreed with the LPA as it was agreed that a new ADV application would be submitted and additional information submitted. To this end, and as a result of multiple forms of engagement, as the outcome of a meeting with the LPA on the 24<sup>th</sup> March 2025 the following was agreed with the LPA in terms of resubmitting a new ADV application;

*The proposed hub would be located adjacent to a gravel car park and as such, it was considered that the hub would be a little exposed and prominent. It was discussed whether the proposed hub could be relocated adjacent to the retail units on the opposite side of the road. If this site is not suitable, it would be helpful if a list of sites that have been considered and discounted, along with the reasons could be provided.*

As a result of this engagement, the Council proposed that a revised supporting statement be provided with discounted alternative sites alongside a driver distraction survey. As this additional information was provided, and will subsequently be submitted accompanying these appeals, it is not considered necessary to provide any further information over and above the summary above that has led to this appeal.

### **3.0 Background to the Street Hub Project in the Council Area: Need for the Site**

#### ***Need for the site***

- 3.1 This application is part of a wider scheme of BT Street Hub implementation throughout the U.K. In terms of roll-out, where possible and practicable, it is proposed to install Street Hubs either as a direct replacement for existing BT payphones, or in very close proximity to such payphones. As these existing payphones will be removed it should minimise impact on existing streetscenes by reducing street clutter, or at least not adding to it at particular locations. In this instance, the proposal would see the introduction of a new Street Hub at the appeal site and removal of 2No.existing phone kiosk within the locale. This site forms part of a strategic package of applications submitted to the Council, containing a number of Street Hubs located within existing streetscapes in the Council area.
- 3.2 A Planning, Design and Access Supporting Statement was submitted as part of the full planning and express advertisement consent applications which provides technical details of the Street Hubs, a justification for the proposal's in terms of its siting and appearance and the added benefits it will bring to the public realm areas of this part of the Council area in terms of the modern services it provides to the public, visitors and business alike.
- 3.3 It is contended by the Appellant that in their determination of the applications, the Council overestimated the visual harm of the development in relation to its impact on the streetscene and appearance of the locality, as well as consideration that the proposal would reduce the pedestrian footway to an unacceptable level and also restrict visibility to sub-standard levels in the event of signal failure at the junction with Stanley Road/A56 Bury New Road. The need for modern and reliable telecommunications networks not something that the council should query as the NPPF is clear in its view that Local planning authorities should not 'question the need' for such infrastructure.
- 3.4 The Appellant considers that in terms of the Council's assessment against its development plan policies they did not give sufficient consideration to the benefits of the electronic communications infrastructure in the planning balance against any perceived visual harm to the locale, as well as matters relating to highway/pedestrian safety.

3.5 It is considered that the modern city and its inhabitants and visitors expect high level mobile communications network technology, whether this be Wi-Fi, or mobile services networks. The fact that free W-Fi network is to be provided in the Council area via the Street Hub has not been given due weight by the Council in their determination of the Street Hub's visual impacts is contended. This Wi-Fi communications network would be free to the user and would not cost the Council to install or maintain. The main benefits as a result of the street hubs could be summarised as follows;

- Ultrafast public and encrypted Wi-Fi
- Access to public services
- Multiple accessibility options
- Powered by 100% renewable carbon-free energy
- Inspected weekly and cleaned at least every two weeks, monitored 24/7
- Secure power-only USB ports for rapid device charging
- Free phone calls Direct 999 call button
- Display community and emergency (i.e. police) awareness messaging
- Environmental sensors to measure air quality, noise, traffic and more.
- Improved 4G and 5G coverage to local communities (through the installation of small cells if/when required by operators)
- 876 hours of free council advertising per unit per year
- Ability to house IoT sensors such as air quality, traffic etc.

3.6 These benefits in addition to those provided by a traditional BT payphone (2No. to be removed as part of the proposed development) should be given significant weight in the planning balance as required by the development plan and policy guidance in NPPF (2024) against the consideration of any visual harm that may be predicted due to the alleged prominence of the Street Hub. For clarity, the existing kiosk form part of the appellants estate and is still in use.

3.7 In terms of roll-out, where possible and practicable, it is proposed to install Street Hubs either as a direct replacement for existing BT payphones, or in very close proximity to such payphones. As these existing payphones will be removed it should minimise impact on existing streetscenes by reducing street clutter, or at least not adding to it at particular locations. However, in some instances the proposal will not see the replacement or 'relocation' of nearby infrastructure, and will see the installation of a new unit, and in such instances additional kiosks will be removed from elsewhere within the council area (as identified by the appellant), and when considering their

Ofcom requirements to provide public infrastructure. The proposed Street Hub's will help to deliver a comprehensive network of connectivity within the borough whilst enhancing the functionality of the Council's streetscene and use.

#### **4. Planning Policy Framework**

- 4.1 In accordance with the planning act the consideration in terms of the appeal proposal's determination regard should be had of the development plan and it determined accordingly unless material considerations indicated otherwise.

#### **National Planning Policy and Guidance**

#### **Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)**

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) set out the Government's advertisement control planning policies for England and how these are expected to be applied and is considered to be a material consideration for the Express Advertisement Consent application. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) state the following specifically in relation to advertisement control:

#### **PART I – Section 3**

#### **Powers to be exercised in the interests of amenity and public safety**

- 3.—(1) A local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety, taking into account—

- (a) the provisions of the development plan, so far as they are material; and
- (b) any other relevant factors.

- (2) Without prejudice to the generality of paragraph (1)(b)—

- (a) factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest;
- (b) factors relevant to public safety include—

- (i) the safety of persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (ii) whether the display of the advertisement in question is likely to obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air;
  - (iii) whether the display of the advertisement in question is likely to hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- (3) In taking account of factors relevant to amenity, the local planning authority may, if it thinks fit, disregard any advertisement that is being displayed.
- (4) Unless it appears to the local planning authority to be required in the interests of amenity or public safety, an express consent for the display of advertisements shall not contain any limitation or restriction relating to the subject matter, content or design of what is to be displayed.

### **National Planning Policy Framework (December 2024)**

Planning policy is provided at the national level by the National Planning Policy Framework (NPPF). It is a material consideration in planning decisions. The NPPF is pro – development with a ‘presumption in favour of sustainable development’ seen as a golden thread, running through both plan making and decision taking’. The thrust of this guidance is positive and a reminder to LPAs that we need to build the requisite infrastructure to enable economic growth.

In this regard the Framework can be summarised as follows:

- Government policy is to support high quality communications infrastructure and systems as essential for sustainable economic growth;
- Government policy is to keep the inevitable environmental impact associated with electronic communications development to a minimum;
- The best way to minimise environmental impact is to avoid the unnecessary proliferation of new radio masts and sites;

- The starting point for planning new networks or the expansion of existing networks is therefore to use existing electronic communications sites as and when applicable;
- The emphasis on minimising environmental impact is greater per the sensitivity of the site. The emphasis on exploring and utilising site sharing opportunities is consequently higher in these circumstances;
- Best practice encourages a consultative approach and one that seeks to minimise potential visual impact and
- Great weight should be given to conserving landscape and scenic beauty in certain specified designated landscapes, e.g. National Parks, Areas of Outstanding Natural Beauty, Conservation Areas, etc.;

The NPPF as a whole is aimed at encouraging a more positive approach to town planning. While the NPPF builds environmental protection into the definition of sustainable development, there is also a very clear emphasis that local planning authorities should be looking for ways to help development come forward and not reject applications simply on environmental grounds. This is emphasised in paragraph 10 of the NPPF, which states that in order that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development. The NPPF recognises that this is especially relevant where a development might have other significantly important benefits such as being essential to meet, for example, enhancement and improvement to existing communications infrastructure.

Paragraph 11 of the NPPF state that for 'decision-making', the presumption in favour of sustainable development means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

- ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

As such, development proposals that accord with the provisions of the Development Plan should be approved without delay. In respect of this guidance, the following sections of this statement demonstrate that the proposed development accords fully with all relevant Development Plan and NPPF policies and, therefore, permission should be granted for the development.

The importance of the proposed development in providing the upgrading and enhancement of the existing public phone kiosk network is clearly an important material planning consideration as it directly supports sustainability and is also precisely the type of new digital infrastructure that the NPPF is seeking to support. The development proposed is comparatively small scale, sited where the principle of telecommunications development has been long established and therefore accepted, designed in a way that is predominately consistent with the existing infrastructure setup and so should be acceptable in every respect.

However, for completeness we still highlight some of the key points within the NPPF as they help demonstrate why the application should be permitted:

Paragraph 7 advises that the purpose of the planning system is to contribute to the achievement of sustainable development. It then states that: *“At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.” [our emphasis];*

Paragraph 20 advises that strategic policies should *“make sufficient provision for.....telecommunications” and that it should “be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances”*

Paragraph 38, on “decision-making” states that authorities should *“work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-*

*makers at every level should seek to approve applications for sustainable development where possible”.*

The NPPF builds on the aspiration to build a strong, competitive economy. Paragraph 85 states: *‘Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking in to account both local business needs and wider opportunities for development. The approach taken, should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation....’*

As highlighted previously, the NPPF directly addresses the need for enhanced wireless communication services, first mentioned in paragraph 20, which states that an LPA’s strategic policies must make sufficient provision for:

*“b) infrastructure for transport, telecommunications (our emphasis), security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat)”*

Leading on from this, paragraph 119 states 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. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time.....”*. This wording echoes guidance set out in previous version of NPPF and emphasises the importance of reliable communications infrastructure for both economic growth and social well-being.

While supported, paragraph 120 of the NPPF retains the requirement to minimise the number of installations consistent with the efficient operation of the network but also includes being consistent with the needs of consumers and providing reasonable capacity for future expansion.

Paragraph 123 retains the guidance set out in previous versions of the NPPF version and states that *“Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure”*.

As can be seen from the above, the NPPF clearly acknowledges the benefits of modern electronic communications and seeks to encourage such development as being essential due to their role in supporting a modern economy, contributing to sustainable objectives, and enhancing local community access to a range of goods and services. Local planning authorities are advised to respond positively to proposals for electronic communications development and this must include an understanding of the associated special problems and technical needs of developing and upgrading communications networks.

In addition to the above, paragraph 141 highlights that *“the quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts”*.

In the case of this proposal site, the installation of the Street Hub unit would provide a modern, multifunctional alternative to the traditional ‘mast’ that would act as a communication hub within a dense urban area, while ensuring that the character of the area is not significantly adversely impacted upon in respect of matters relating to amenity and public safety.

Public benefits are defined within the NPPF and could be anything that delivers economic, social or environmental progress. Benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

Specific guidance relating to advertising developments and on the interpretation of the Regulations is contained within the **Communities and Local Government Planning Practice Guidance** (“PPG”), which contains the current guidance on this subject. Section 8 of the PPG explains in greater detail the criteria for considering amenity issues in advertising

proposals. More specifically, on the matter of scale the guidance suggests that advertisements should respect the scale of the surroundings.

*“...for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.”*

It further advises that; *“This might mean that a large poster-hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.”*

On matters of Public Safety, the PPG states that:

*“All advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. For example, at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing or other places where local conditions present traffic hazards. There are less likely to be road safety problems if the advertisement is on a site within a commercial or industrial locality, if it is a shop fascia sign, name-board, trade or business sign, or a normal poster panel, and if the advertisement is not on the skyline.”*

### **Code of Best Practice on Mobile Network Development in England (March 2022)**

The Code of Best Practice has been fully revised in March 2022 and is now even more supportive of mobile network provision in line with Government aspirations that everyone should have access to the information super highway no matter where they are located whether that be in rural or urban areas. This Code provides guidance to mobile network operators, their agents and contractors and equally to all local planning authorities in England. It supersedes the Code of Best Practice on Mobile Phone Network Development (2016).

The principal aim of this Code is to support the government’s objective of delivering high quality wireless infrastructure whilst balancing these needs

with environmental considerations. It also has an important role in making sure that appropriate engagement takes place with local communities and other interested parties.

The development of such infrastructure must be achieved in a timely and efficient manner, and in a way, which balances connectivity imperatives and the economic, community and social benefits that this brings with the environmental considerations that can be associated with such development. The Code also has an important role in making sure that appropriate engagement takes place with local communities and other interested parties. The Code also highlights that wireless technology continues to evolve rapidly, and mobile devices are now capable of much more. Second generation (2G) technology gave us voice calls and text messages, 3G led to the launch of smartphones, and 4G, which enabled faster browsing, allowed us to do things like watching videos on the move. 5G, the latest generation of wireless technology, is much faster than previous generations of wireless technology and can offer greater capacity and lower latency, allowing thousands of devices in a small area to be connected at the same time. 5G networks, and future mobile generations, will be vital for a range of Internet of Things uses (IoT) and Smart City applications.

The Code highlights that local planning authorities should support the deployment of digital infrastructure by:

- Incentivising connectivity: support the expansion of telecommunications networks, and take a 'joined-up' approach to the wireless infrastructure planning process, including ensuring that Local Plans effectively support the deployment of digital infrastructure.
- Facilitating sites: engage with operators when new sites have been proposed and discuss site requirements.
- Engagement with operators: respond positively to requests for engagement and make decisions in line with national policy and Local Plans. For planning applications, find solutions to issues and ensure timely decisions are made.
- Information and communication: ensure that members of the public can access information about any development proposals within their local area. Send communications promptly to an appropriate operator contact (or their representatives).

It also goes on to state that *‘The planning system plays a key role in delivering the digital infrastructure that we need, in a sustainable and well-designed way, especially as households and businesses become increasingly reliant on mobile connectivity’*. This is followed by highlighting that *‘There should be a presumption in favour of facilitating sustainable network development and, as such, operators and local planning authorities, as well as all other bodies involved in the deployment process, should work together to ensure connectivity needs are met and find viable solutions to deployment issues’*.

The Code highlights the Government’s Communications Policy and Planning Policy. It acknowledges that digital connectivity is vital to enable people to stay connected and businesses to grow. Fast, reliable digital connectivity can deliver economic, social and well-being benefits for the whole of the UK. The Code indicates that recent changes in planning policy [and regulation] are intended to align with Government communications policy, where the ultimate goal is to achieve mobile coverage wherever it is needed. Furthermore, the Code also reiterates NPPF guidance in strongly supporting high quality communications infrastructure, which is seen as essential for sustainable economic growth.

### ***Development Plan Policy***

- 4.2 Section 70 of the Town and Country Planning Act 1990, as amended, requires planning applications and appeals to be determined having regard to the provisions of the Development Plan and other material considerations, and section 38 of the Planning and Compulsory Purchase Act 2004 requires applications and appeals to be determined in accordance with the Development Plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'.

For the purposes of Section 70, the current adopted Development for Bury Council comprises the following;

- The Places for Everyone Plan (PfE), adopted 21st March 2024.

This is a Joint Development Plan of nine Greater Manchester authorities: Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan. PfE partially replaces policies within

the Trafford Core Strategy (and therefore the Revised Trafford Unitary Development Plan), and Appendix A of the Places for Everyone Plan for details on which policies have been replaced.

- The Bury Unitary Development Plan 1997

The current Bury UDP was adopted by the Council on 29th August 1997 and acts as a guide for the future development or protection of land in the Borough and together with other adopted Development Plan Documents its policies and proposals form the basis for the Council's decisions on planning applications

## **Local Plan Policies**

### Relevant Places for Everyone Plan (PfE) Policies

#### JP-P1 - Sustainable Places

This policy seeks to support the aim to become one of the most liveable city regions in the world, consisting of a series of beautiful, healthy and varied places, and where appropriate consistent with the following;

1. Distinctive, with a clear identity that:
  - A. Conserves and enhances the natural environment, landscape features, historic environment and local history and culture;
  - B. Enables a clear understanding of how the place has developed; and
  - C. Respects and acknowledges the character and identity of the locality in terms of design, siting, size, scale and materials used
2. Visually stimulating, creating interesting and imaginative environments which raise the human spirit through the use of green space, public art and quality design
3. Socially inclusive:
  - A. Responding to the needs of all parts of society;
  - B. Enabling everyone to participate equally and independently;
  - C. Providing opportunities for social contact and support; and
  - D. Promoting a sense of community
5. Adaptable, able to respond easily to varied and changing needs and technologies

8. Safe, including by designing out crime and terrorism, reducing opportunities for anti-social behaviour and by ensuring that developments make appropriate provision for response and evacuation in the case of an emergency or disaster
11. Incorporating inclusive design within all spaces with support for tackling inequality and poverty to form part of creating sustainable places
14. Well-connected to other places, particularly by public transport and digital infrastructure enabling everyone to take advantage of the employment, cultural and leisure opportunities across Greater Manchester and beyond

#### JP-P6 – Health

To help tackle health inequality new development will be required, as far as practicable, to:

- A. Maximise its positive contribution to health and wellbeing, whilst avoiding any potential negative impacts of new development;
- B. Support healthy lifestyles, including through the use of active design principles making physical activity an easy, practical and attractive choice;

#### JP-C2 – Digital Connectivity

We support the provision of affordable, high quality, digital infrastructure. In making decisions we will support a range of measures, including:

1. Enabling the roll-out of latest generation mobile technology and full fibre to the premises connectivity, in a way that maximises coverage whilst protecting townscape quality and ensuring an ability to respond to updated/changing technology;
2. Requiring all new development to have full fibre to premises connections, unless technically infeasible and/or unviable, and to incorporate multi-ducting compliant with telecoms standards, to facilitate future-proof gigabitcapable network connections. It is expected that internet connections will be operational and immediately accessible to network providers when occupiers move into new properties and

3. Facilitating the provision of free, secure, high speed public wi-fi connections, particularly in the most frequented areas.

#### JP-C5 – Streets for All

Streets will be designed and managed to make a significant positive contribution to the quality of place and support high levels of walking, cycling and public transport. Targeted improvements to the highway network will be supported through studies and scheme development, where they complement the aim of securing a significant increase in the proportion of trips made by walking, cycling and public transport (as set out in Policy JP-C6 'Walking and Cycling' and Policy JP-C3 'Public Transport'). We will seek to ensure:

1. The design and management of streets will follow a Streets for All approach, including by:
  - a. Understanding the 'movement and place function' of streets as the starting point for improvement;
  - b. Ensuring that streets are welcoming for all, and respond to the needs of those with reduced mobility;
  - c. Delivering new and improved walking and cycling routes and facilities as part of the delivery of an integrated sustainable transport network;
  - d. Maximising the ability of pedestrians and cyclists to navigate easily, safely and without delay, and minimising barriers and obstacles to their movement;
  - e. Ensuring the efficient movement of people and goods on streets with a high 'movement function'.
3. Any new infrastructure minimises the negative effects of vehicle traffic; and
4. New infrastructure includes provision for utilities and digital infrastructure where required.

#### Policy JP-C6: Walking and Cycling

In order to help deliver a higher proportion of journeys made by walking and cycling, we will support a range of measures, including:

1. Creating safe, attractive and integrated walking and cycling infrastructure, connecting every neighbourhood and community with reference to national and locally adopted design guidance;
2. Ensuring routes are direct, easily navigable and integrated with the street and public transport network;
3. Creating active neighbourhoods and street networks which are more permeable to walking and cycling than to the private car, creating an incentive to walk and cycle;
4. Creating, where needed, dedicated separate space for people walking and cycling, with pedestrians and cyclists given priority at junctions and crossings;
5. Increasing the capacity and quality of walking and cycling infrastructure in locations where significant growth in the number of short journeys is anticipated, and where quality of place improvements are proposed;
6. Utilising and enhancing green infrastructure, including canals, parks and recreation grounds, to create opportunities for walking and cycling;

#### The Bury Unitary Development Plan 1997

##### 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 scale and massing of existing buildings and structures;
- the nature of the predominant land use in the locality;
- the presence of Listed Buildings or Conservation Areas;
- 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.

While the above policy and plan are of an age whereby they could be considered as being 'silent' in the decision making process, the wording of

the policy is not consistent with that of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the National Planning Policy Framework (the Framework) makes it clear that control of advertisements may only be exercised in the interest of amenity and public safety. As such, it is not considered that this policy would itself be afforded any significant weight in the decision making process.

#### 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 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 visual and physical impact, especially on the Green Belt, river valleys, Special Landscape Areas, Listed Buildings, Conservation Areas, ancient monuments and archaeological remains.

While the above policy would be of relevance given the telecommunications element of the proposal and Street Hub, it is not considered that the wording of the policy and therefore policy in general, would be of any consideration in this instance other than reference to height, type and colour of materials.

#### 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;
- the relationship of the proposal to the surrounding area;
- the choice and use of materials;
- access and other design features for the mobility impaired;

- the design and appearance of access, parking and service provision;
- landscaping, including the use of natural landscape features, and open space provision;
- the use of lighting.

While the above policy is of an age whereby it could be considered as being 'silent' in the decision making process, when considering the street scene in this instance, along with the design of the unit, it is considered that the proposal would be consistent with the aims of this policy.

#### 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.

While the above policy is of an age whereby it could be considered as being 'silent' in the decision making process, when considering the street scene in this instance, along with the design of the unit, it is considered that the proposal would be consistent with the aims of this policy.

In addition to the above policies, PG19 'Advertisement' provides further guidance for consideration in respect of advertisement proposals. Section 9 of this guidance states that signage can appear obtrusive or visually intrusive due to being too large, sited too prominently, sited where they remain visible over a long range and out of keeping or unrelated to any nearby buildings or the area as a whole. It further states that too many signs on premises, particularly when they are of different shapes or design and in close proximity, will look unduly cluttered.

- 4.3 Details of the Street Hub design, its inclusiveness and accessibility are included within the **Planning, Design and Access Supporting Statement**. The award-winning design was created by urban design firm Antenna, led by Masamichi Udagawa whose work is displayed in the Museum of Modern Art in New York. It is appropriate for the Street Hub's function in terms of scale, form, quality of materials and sustainability.
- 4.4 The siting criteria, whilst taking into account the impact of the Street Hub in terms of the character and appearance of its proposed setting, also contain considerations of public safety, including pedestrian movement, sightlines and highway safety.
- 4.5 The impacts of the appeal proposal in terms of relevant material planning considerations were outlined in the Appellant's **Planning, Design, and Access Supporting Statement** and are further discussed in the following section containing their grounds of appeal against the Council's refusal to grant planning permission and advertisement consent for the Installation of the proposed Street Hub and associated advertising at this location.

## 5. **Grounds of Appeal**

- 5.1 The Council's reason for refusing the applications for both full planning and advertisement consent are as follows;

### Full Planning

1. *The proposal would result in an unnecessary and unacceptable obstruction of the existing adopted highway on the A58 (Rochdale Road) and the creation of additional street clutter for an installation that primarily consists of an advertisement screen, 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 adopted highway on Rochdale Road and contrary to the active travel aspirations of the Council. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*
2. *The proposal would reduce the available width of the existing adopted footway on the A58 (Rochdale Road) to substandard levels, which would be detrimental to pedestrian safety and maintaining existing pedestrian desire lines on the adopted highway on Bury New Road. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework*
3. *The proposed installation would restrict visibility of the signals to the east of the site at A58 Rochdale Road/York Street/Lord Street junction and would pose a distraction to drivers approaching the signalised junction from the west, to the detriment of highway safety and maintaining the free flow of traffic on the adjacent classified road. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*

4. *The proposal would restrict visibility to sub-standard levels to the right at the junction of York Street with Rochdale Road in the event of an 'all red'/signal failure, which would be detrimental to highway safety and maintaining the free flow of traffic on the adjacent classified road. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*
5. *The application and submitted plans contain insufficient information in relation to the removal of existing phone kiosks stated as forming part of and justification for this proposal. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*
6. *The proposed advertisements, by virtue of their illumination, size and siting would appear as an incongruous addition to the street scene which would be severely detrimental to both the appearance of the streetscene and to the general visual amenities of the area contrary to Development Plan Policies EN1/9 - Advertisements, EN1/2 -Townscape and Built Design, EN1/4 - Street Furniture, JP-P1 Sustainable Places and the National Planning Policy Framework.*
7. *The proposed street Hub, by virtue of its siting and position would appear an alien and incongruous addition on the footway and as a result strident in the streetscene which would be severely detrimental to both the appearance of the streetscene and general visual amenities of the area contrary to Policies EN1/9 - Advertisements, EN1/2 -Townscape and Built Design, EN1/4 - Street Furniture, JP-P1 Sustainable Places and the National Planning Policy Framework.*

#### Express Advertisement Consent

1. *The proposed advertisements, by virtue of their illumination, size and siting would appear as an incongruous addition to the street scene which would be severely detrimental to both the appearance of the streetscene and to the general visual amenities of the area contrary to Development*

*Plan Policies EN1/9 - Advertisements, EN1/2 - Townscape and Built Design, EN1/4 - Street Furniture, JP-P1 Sustainable Places and the National Planning Policy Framework.*

2. *The proposal would represent an unnecessary obstruction and reduce the available width of the existing adopted footway on the A58 (Rochdale Road), which would be detrimental to pedestrian safety and maintaining existing pedestrian desire lines on the adopted highway on Rochdale Road. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*
  3. *The proposed installation would restrict visibility of the signals to the east of the site at the A58 Rochdale Road/York Street/Lord Street junction and would restrict visibility to sub-standard levels to the right on egress at the junction of York Street with Rochdale Road in the event of an 'all red'/signal failure, which would be detrimental to highway safety and maintaining the free flow of traffic on the adjacent classified road. The proposed development therefore conflicts with the following policies of the Development Plan: EN1/9 - Advertisements, EN1/4 - Street Furniture, EN1/2 Townscape and Built Design, JP-P1 Sustainable Places, JP-C5 Streets for All, JP - C6 - Walking and Cycling and the National Planning Policy Framework.*
- 5.2 The Council has suggested two main reasons for refusal, these being the impact on the visual amenity of the appeal site and surrounding street scene as well as perceived impact on highway safety matters (both in relation to pedestrian movement and also road users). The appellant has noted the concerns and disagrees with the findings. The case of the Appellant is document below.
- 5.3 The Appellant considers that the policy tests used to determine the planning application have relied too heavily on its consideration that the proposal would be significantly harmful to the visual amenity of the area, which the Appellant considers to be excessively exaggerated by the Council, as well as matter relating to highway safety. Within the National and Local Planning Policy, key themes emerge in relation to the strategic directions and policy objectives. The proposal to upgrade existing BT payphones to Street Hub units appropriately responds to these policies by:

- Providing communication infrastructure in a strategic location that will be a high-quality design and provide enhanced digital connectivity;
- Improving public safety through providing access to emergency services, increased street illumination and reducing anti-social behaviour currently present in existing BT payphone booths;
- Achieving advertising displays that are appropriately illuminated and designed to ensure no hindrance to surrounding transport networks;
- Promoting accessibility and inclusivity with fully accessible community features;
- Enhancing and improving the quality of the public environment and ensuring valued characteristics are protected, to create safe, functional places with strong sense of connection; and
- Promoting sustainability with units being powered by 100% renewable carbon-free energy.

Overall, the proposal is considered to be a highly appropriate response to strategic vision and objectives.

- 5.4 The Appellant considers that the design of the Street Hub's in terms of its sleek modern and innovative appearance is more consistent with that found within many streetscene settings throughout the country, including within the Council's area. The design, as discussed above, is of high quality and reflects a historical design which is a common and expected feature across many streetscapes around the United Kingdom, including that of heritage significance.

#### Visual Amenity Considerations

- 5.5 It is accepted that there will always be challenges faced in finding a balance between limiting any visual harm created by the siting of development upon street scenes, albeit that assessment must take into consideration all relevant matters including that of the immediate street scene as well as the surrounding context in which it would be viewed within the context of. It should also be considered that streets and subsequent street scenes will always be subject to change through time, changing demand, and users expectation. This is of particular relevance when considering advertisement and telecommunication within street scenes throughout the country with a focus on sustainable and connected cities.

- 5.6 Likewise, as Street Hubs can provide the Council with valuable data as each unit has environmental sensors that can monitor air, sound and light, in most instances it is beneficial to plan a sequence of Street Hub sites along key routes, so that the information gathered can be better analysed. This free environmental data has its own dashboard and can assist the planning system actively manage patterns of growth in support of national air quality objectives and will be a useful source of real-time data in the delivery of the Council's own green agenda. In a similar vein, Street Hubs have the capability to monitor pedestrian, cyclist, and vehicle movements and so can help the Council to monitor and, where practicable, develop travel plans for the area.
- 5.7 The proposed Street Hub has a much more slender and slimline profile than that of existing phone boxes and would therefore be comparable in form and appearance to existing freestanding units of a similar form than that can be found elsewhere within the Council area and common place in many streets throughout the country, including that of sensitive and non-sensitive land designations. The Street Hub, as set out previously, is an evolved unit that will enhance and, in some instances replace, their existing estate throughout the country.
- 5.8 Moving onto matters relating to the appeal site and its immediate and surrounding street scene setting, in this instance the street scene setting is that of a commercial context, with nearby commercial/industrial units immediately to the north and south side of the appeal site, and further to the west the transition to what would be considered as the main retail centre and whereby the change in setting to an even greater commercial context therefore evident. The appeal site is viewed within this setting and context as can be seen in the image below of the site and views towards the west.



The appeal site and view west towards the main commercial/retail centre

- 5.9 While the council has considered that the proposal would cause unacceptable harm to the visual amenity of the locale, as previously stated the second ADV application was submitted in agreement with the LPA, with additional information requested and provided. If it was considered the case that the LPA did not consider that the proposal would be acceptable from a visual amenity perspective, then it begs the question why agree to a further application being submitted in this instance. Despite this, and somewhat contrary to discussions, the officers report states *'It is considered that a comprehensive sequential test has been carried out to consider alternative sites. That is not to say the site which has been put forward is suitable from a planning perspective when considering the visual impact of such a structure in the streetscene'*. While the comment is noted, as stated this was not the understanding as to the numerous discussions/meeting in respect of this site, and as stated if never considered acceptable from a visual amenity perspective then why request any further application and additional information as a way forward. While this is extremely disappointing on the part of the LPA, nonetheless their consideration that the appeal proposal at this location would be significantly detrimental to the immediate and surrounding street scene and context, is very much contended.
- 5.10 While in the officers report it references that the area has an 'open' feel, it is considered that this looks at the appeal site in isolation and not that of the street scene or general surrounding locale. In any event, even with the introduction of the proposed street hub at this point it is not considered that this would then provide a feeling of clutter. Additionally, no consideration has been given to the commercial context of the street scene setting in the

immediate or surrounding locale, whereby the appeal site offers no amenity value that the LPA would seek to preserve. In suggesting that the proposal would detract from the appearance of the locality it would appear that the council considers this locality worthy of preservation. While the site selection process seeks to ensure that the proposal would represent, on balance, an acceptable form of development, even with no similar form of free standing units immediately adjacent to the site these are evident in the surrounding locale and therefore it is considered that the appeal site, when viewed on its own merit or as should be the case and taking into consideration the surrounding locale, would comfortably accommodate the proposal within this commercial setting and not have any detrimental or demonstrable impact on the overall street scene setting to any significant degree, and not interrupt the '*visual rhythm and pattern of the existing street scene*' as considered by the LPA.

- 5.11 In addition to the above, advertisements and free standing units are prominent within the immediate surrounding locale, and a locale in which the proposal would be overall viewed within the context of. Some examples of this are shown in the images below, which are within the immediate and surrounding locale in which the appeal proposal would be viewed within the context of as stated.



Nearby units with strong advertisement presence



Advertisement hoarding a short distance to the west of the application site



Freestanding advertisement units to the west of the application site



Prominent advertisement display at the multi-storey car park to the west

- 5.12 While it is not contended that all form of development will have a degree of visual impact by their sheer nature, in this instance it is contended the Councils consideration that the proposal would be visually intrusive and appear as an obtrusive feature in the Streetscene that would be detrimentally harmful to its setting and appearance, or to that of the overall character of the area. It is not considered that, on balance, this proposal would be considered as highly inappropriate as the Council suggest in this instance.

- 5.13 Given the dual function of the proposal, the proposed Street hub has a much more slender and slimline profile than that of existing phone boxes and would therefore be comparable in form and appearance to existing freestanding units of a similar form than that can be found elsewhere within the Council area and common place in many streets throughout the country.
- 5.14 Visual amenity was a consideration in recent appeal decisions for similar structures to that being proposed whereby, and even when considering the different locations to which these appeals relate the Inspectors determined the following in respect of similar proposals and being viewed within the context of the surrounding street scene as opposed to being viewed in isolation, which principles should still apply in this instance;

*(Appeal ref: APP/Z5630/H/3209488, 2-6 Fife Road, Kingston upon Thames).*

*"Therefore, due to the smaller footprint and slender profile of the proposed kiosk, the proposal would not be visually intrusive or create visual street clutter. The proposal would also not represent an incongruous addition due to its similarities with the existing digital signs within the town centre."*

*(Appeal Ref: APP/N5090/Z/22/3296138, High Street, Barnet)*

*"given the limited amount of street furniture nearby, and existing advertising, which is primarily on the buildings themselves, these proposed advertisements would not introduce a significant sense of visual clutter. Although I did not observe any other nearby digital displays on my visit, modern, statically illuminated digital displays are not an uncommon feature in commercial High Street locations such as this."*

- 5.15 The above only represent a small number of appeal decision in allowing appeals on the basis that the LPA refused these applications on.
- 5.16 In considering the above, it is contended that the proposal would create a form of development that would be significantly detrimental or demonstrable in terms of the general street scene setting at this point. To add to this, the reason that the street hub would be located at the site is with a view to creating connected streets with the proposed location of other Street Hubs within the locale, whereby users of the Wi-Fi features of the Hubs will be able to roam the area with uninterrupted connectivity. By siting the street hub at this location it will help to consolidate the Street Hubs in this part of

Council area, albeit that each Street Hub provides associated benefits on its own.

- 5.17 In respect of digital infrastructure and economic development, these new Street Hubs are the perfect form of infrastructure for positive change, enabling councils to collaborate and configure infrastructure to support smarter, safer and more sustainable places for residents, visitors and businesses alike. BT is moving public connectivity forward, evolving their existing and long-established payphone estate further with a move from the 1<sup>st</sup> Generation 'InLink' units that have seen deployment throughout the country, to the proposed Street Hubs, a sleek modern answer to the demands of a digitally connected, converged-media society and at no cost to the Council.
- 5.18 On this point, recent press releases highlight that BT gifted up to £7.5m of free advertising space to local businesses via its Street Hub units in 2023-24 as the new units are rolled out to new locations across the UK, whereby BT (in conjunction with the LPAs) contacted local businesses and the public in these areas in order to encourage them to nominate local firms who could benefit from the offer.
- 5.19 The came as a new BT study found that more than 60 per cent of small businesses agree that local advertising would help to increase awareness of their business, with 40 per cent saying it would encourage more people to shop at their local high street. However, almost half (49 per cent) said that cost was a major obstacle to them investing in local Out Of Home (OOH) advertising. BT is now taking action to remove one of the biggest barriers to adoption, with the Street Hub's digital advertising screens designed to help small firms attract more customers following the local and national lockdowns.
- 5.20 Additionally, BT's new Street Hub units can also help local councils achieve their social and economic improvement and sustainability goals. Each local authority is provided with 5 per cent of total screen time on each Street Hub unit to promote local community and municipal services such as food banks, health and social care or leisure activities. They can also inform the local community about developments or issues affecting their area. For example, during the peak of the Covid-19 pandemic, the 400 existing Street Hub units across the country played a vital role in displaying key public health advice from Public Health England and local councils.

- 5.21 With nearly two thirds of all local authorities aiming to become carbon neutral by 2030, each Street Hub unit can also be fitted with air quality and CO2 sensors. This will provide local councils with the insight needed to help them take action to improve air quality, contributing to the health and wellbeing of local people, and has been used by council's already.
- 5.22 The above shows how the proposed units would assist in council's agendas to have more people return to our high streets not prejudice this. The overall aim of the Street Hubs is to enhance digital connectivity and services for communities through features such as free mobile device charging, access to an emergency call button, charity helplines, and local wayfinding via an integrated tablet, as well as the additional benefits set out previously. Additionally, it is considered that the public benefits were in fact set out in detail and adequately included as part of the application submissions, to which the council have offered little or no weight to as stated. Instead, as stated the consideration of the council that the units are simply obtrusive and unnecessary is contrary to the NPPF whereby it is clear that councils should not question the need. The applicant is upgrading their public estate with a new modern digital unit reflective of the times, while also giving due consideration in respect of their Ofcom requirements for such provision.

#### Highway Safety Considerations

- 5.23 In terms of the reason for refusal on perceived highway safety grounds, while the decision notice suggests a number of reasons, these fundamentally relate to consideration in respect of restricting visibility and also reducing the useable width of the footway to an unacceptable level and impacting pedestrian desire lines. It is noted in the consultation response from the Council Highway Department there is no assessment of the proposal as such, no reference to the site specifics and just bullet points as reasons for refusal. This is considered somewhat unhelpful as there is no clear demonstration as to how they got to such consideration
- 5.24 Firstly, in terms of consideration and reason that the proposal would reduce the useable footpath width to an unacceptable level, neither the officers report nor the consultation response from Highways provides any additional detail on coming to this conclusion. While this is the case, it is noted that on other applications the LPA has dealt with for the same form of development elsewhere in the council area, it has been stipulated consistently that it is expected a minimum unobstructed footpath width of 2m is retained. This is

consistent with the Greater Manchester's Street For all Design Guidance, which in consultation responses on numerous similar applications, tFGM has highlighted this 2m distance as that to be maintained. In this instance, as there would be 2.4m of unobstructed footpath width retained then it is unclear as to why it is therefore considered that substandard levels of unobstructed footpath would be retained, and as stated no justification has been provided that has drawn the Council to their consideration on this. Despite this, in this instance the proposal would be comfortably accommodated on the footpath while ensuring that a sufficient and unobstructed width would be retained.

- 5.25 Moving on from the above, and in respect of consideration that the proposal would be detrimental to pedestrian desire lines, as there would be an unobstructed footpath width of in excess of 2m retained, it is unclear as to why this would therefore be the case. The unobstructed width of 2.4m in this instance would be more than sufficient to ensure that desire lines would not be impacted upon as pedestrians would easily be able to pass by the proposed unit without any free flow being interrupted. Additionally, while the officers report confirms the adjacent street sign located on the footpath, this sign is located in the middle of the footpath and as such could be considered as already impacting desire lines for all users. The position of the unit kerb side was selected as it is likely the case that pedestrian already negotiate this sign by passing it towards the car park side of the footpath, and this being the case then this further suggests that the appeal proposal in this instance would not detrimentally or demonstrably on any perceived desire lines than that which would already be the case.
- 5.26 Given the above, it is contended in this instance that the proposal would have any significant impact on pedestrians using this section of footpath and would not be detrimental or demonstrable to the free flow of pedestrians as suggested by the LPA in their reasons for refusal on this basis. Furthermore, while the officers report has suggested that the proposal primarily consists of an advertisement, this shows a distinct lack of acknowledgement as to the function of the street hub as a dual function unit and its primary function being for telecommunication as an upgrade in the appellants existing estate throughout the country. If it was the case that it was primarily for advertisement consent, then as the LPA would know this would not require any subsequent application for planning permission as the structure hosting the advertisements would be deemed lawful through any advertisement consent. As such, and as set out within the NPPF, the need should not be questioned. Additionally, as a statutory undertaker there is no 'agreement'

required, with the only additional requirement a permit to install which is dealt with under a separate process and applied for once the appellant may be in a position to do so (i.e not prior to planning permission and advertisement consent being granted).

- 5.27 Moving onto the consideration that the proposed installation at this point would restrict visibility to the traffic lights to the east of the site, which are circa 25m from the appeal site location, again this is contended and with no evidence to support this consideration from the Council in issuing their decision. To this end, the below image shows an indicative view of the proposal in-situ, taken from circa 45m to the west of the traffic lights at the egress point from Back Rochdale Road. As a further point of clarity, vehicles egressing from this point only require to look at vehicles approaching from the west egressing from here can only be taken towards the east of the road due to a central reservation.



*Visualisation of Street hub in-situ at 45m west of the traffic lights*

- 5.28 As can be seen in the above image, and from a vehicular perspective, when taking a distance of circa 45m away from the traffic signals at the A58 Rochdale Road/York Street/Lord Street junction, there would be no obstruction of these lights that would give rise to any visibility restrictions. Furthermore, while the reason for refusal suggests that the proposal would cause a distraction to drivers approaching these signals, again such a statement is without any justification to support this, and in any even the

standard conditions that apply to such forms of development are provided to ensure that, as far as is practicable, this would be the case.

- 5.29 The above consideration/conclusion was also set out within the Driver Distraction Assessment that was submitted in support of the proposal, and despite this submission it is unclear as to whether this has been considered as it has not been referenced, nor any of its content, other than being mentioned in the officers report as being submitted and summarising the points. In fact, despite the above and aforementioned Assessment, the officers report has suggested that the nature of such units are to 'catch the eye of passers by' and that this would automatically lead to driver distraction to the detriment of highways safety. However, as stated there is no evidence to support this consideration, and such forms of development can be readily seen in such positions relative to the highway throughout the country and in doing so without having any significant adverse impacts on driver distraction/safety and therefore highway safety. Even given the proximity to the traffic lights and crossing point (circa 25m as set out previously), it is contended that the proposal would have any significant detrimental or demonstrable impact in terms of highway safety. Unless the LPA can provide solid evidence to the contrary, then I would see no reason to content this position set out.
- 5.30 Moving onto the next highway safety reason that the council has given as a reason for refusal, this being that the proposal would *'restrict visibility to sub-standard levels to the right at the junction of York Street with Rochdale Road in the event of an 'all red'/signal failure, which would be detrimental to highway safety and maintaining the free flow of traffic on the adjacent classified road*, this is very much contended and considered a matter that should not be given any weight as it relates to a hypothetical situation, and in any event takes no consideration as to the existing setting here.
- 5.31 Despite being a hypothetical situation that has been stated, the same scenario could be said for the car park area to the west of the traffic lights being developed, or a fence erected around its perimeter. While again a hypothetical scenario, the point being made is that in such an even whereby there is a, all red/signal failure then vehicles would naturally be going slow and paying more attention to the oncoming traffic. While it is accepted that vehicles egressing from York Street would have to consider vehicles travelling from the west along Rochdale Road, the set back position of the traffic lights is such that there would still be more than adequate visibility afforded to drivers egressing onto Rochdale Road. While as stated the

comments and reason for refusal are that of a hypothetical scenario, it is questioned why this was not considered historically whereby until relatively recently there has been a large billboard located adjacent to these traffic lights which would therefore, when even taking into consideration this hypothetical scenario, have been contrary to the reason for refusal provided. This historic billboard, granted which is now no longer in-situ due to landowner considerations and not that of the Council seeking it to be removed, and subsequent arrangement can be seen in the image below, which also highlights that advertisements have historically been a long established part of the street scene setting at this point given its commercial context.



Historic arrangement at the York Street/Rochdale Road Junction

- 5.32 Despite this position on the Council, it should be noted that no such request to provide any additional information was provided, presumably on the understanding that this would have been contended as should not be a material planning consideration as dealing with a hypothetical scenario.
- 5.33 Even in the case of any hypothetical all red light/signal failure at the junction, the introduction of the appeal proposal would not have any significant impact on visibility of cars approaching the lights and looking towards any oncoming vehicles to the west, albeit that it is considered the LPA should not have included this as any reason for refusal especially considering there was no evidence to support this position.

- 5.34 While the above sets out matters in respect of the reasons for refusal provided by the LPA on both the full planning and advertisement consent applications, it is noted that there was no negative impact considered in respect of any other matters. It is therefore considered the above sets out the position in respect of the LPAs reason for refusal of these applications.
- 5.35 Additionally, in reiterating the aforementioned in respect of reason No. 5 of the Council decision notice, while it was initially indicated that 2No. existing kiosks would be removed in support of this proposal, it has since come to light that these 2No. existing kiosks located outside 111 The Rock, The Rock Shopping Centre, were in fact subject to a previous application for the same development and subsequent conversion of these kiosks and installation of a Street Hub, which it is understood has now been implemented. As such, in this instance there are no additional kiosks offered up for removal in support of this appeal proposal, albeit that on its own the removal of any additional kiosk out with the appeal site boundary could not likely be controlled by way of any planning condition and as such the appeal proposal assessed on its own merit.

## **6.0 Conclusion**

- 6.1 Balancing the visual amenity of an area and the impact that additional street furniture may or may not have is an issue for central government, local government and statutory undertakers alike. The necessity to address all the pertinent factors in the consideration of such proposals is imperative to ensure that the most appropriate decision is reached. However, this must be undertaken correctly and against what would be relevant and material planning considerations at the time of assessment.
- 6.2 Relevant legislation, government advice and development plan policy must be taken into full account when arriving at a decision. The relevance of the key issues relating to the benefits of the Street Hub in terms of social inclusion and economic support, by providing free Wi-Fi connectivity and the other services, must be weighed against the visual harm in the wider public interest and be based upon the particular merits of the Street Hub design and scale in relation to its contextual siting in each case.
- 6.3 The appeal proposal for a Street Hub at this location forms part of a wider Street Hub project across the council area which will provide free ultra-fast Wi-Fi to the local community, as well as a number of other added benefits which these Street Hub units will provide, all of which seek to encourage people back to our high streets in a sustainable way and support local people, businesses and visitors alike. It has been demonstrated within this appeal that the current context of the area is unlikely to be significantly impacted by the introduction of the proposed street Hub, nor would public safety be detrimentally impacted upon. The Appellant considers that the Council's reasons for refusing this application is erroneous, unreasonable and not based upon any evidence to support them in terms of degree of impact if any at all.
- 6.4 The Inspector is respectfully requested to consider the merits of the appeal proposal based on the evidence provided in support of this appeal and to approve both planning permission and advertisement consent for the appeal proposal.