

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 19 September 2023	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> West End and Hyde Park	
<b>Subject of Report</b>	<b>Areas of pavement outside/ near:</b> <ol style="list-style-type: none"> <li>1. 70-88 Oxford Street</li> <li>2. 150-154 Oxford Street</li> <li>3. Junction Of Great Portland Street and Market Place</li> <li>4. Payphone Site Outside 74 Great Portland Street</li> <li>5. Opposite 19-21 Praed Street</li> </ol>		
<b>Proposal</b>	Planning permission and advertisement consent for the removal of BT kiosks and installation of a BT Street Hub, incorporating two digital 75" LCD advert screens and telephone, on the pavement (in the above locations).		
<b>Agent</b>	Solutions30		
<b>On behalf of</b>	BT Telecommunications Plc		
<b>Registered Number</b>	<ol style="list-style-type: none"> <li>1. 22/04754/FULL 22/04755/ADV</li> <li>2. 22/04756/FULL 22/04757/ADV</li> <li>3. 22/04758/FULL 22/04759/ADV</li> <li>4. 22/04784/FULL 22/04785/ADV</li> <li>5. 22/04790/FULL 22/04791/ADV</li> </ol>	<b>Date amended/ completed</b>	
<b>Date Application Received</b>	15 <sup>th</sup> July 2022		
<b>Historic Building Grade</b>	NA		
<b>Conservation Areas</b>	East Marylebone (Applications 2, 3 and 4)Bayswater (Application 5))		
<b>Neighbourhood Plan</b>	Fitzrovia West Neighbourhood Plan 2020 to 2040 (Application 4)		

## 1. RECOMMENDATION

**Application 1: 70-88 Oxford Street, London**

1. Grant conditional permission; and
2. Grant conditional advertisement consent.

**Application 2: 150-154 Oxford Street, London, W1D 1DJ**

1. Grant conditional permission; and
2. Grant conditional advertisement consent.

**Application 3: Junction of Great Portland Street and Market Place, London**

1. Grant conditional permission; and
2. Grant conditional advertisement consent.

**Application 4: Payphone Site Outside 74 Great Portland Street, London**

1. Grant conditional permission; and
2. Grant conditional advertisement consent.

**Application 5: Opposite 19-20, Praed Street, London W2 1JN**

1. Grant conditional permission; and
2. Grant conditional advertisement consent.

## 2. SUMMARY & KEY CONSIDERATIONS

The proposals relate to a number of sites along Oxford Street, Great Portland Street and Praed Street. 70-88 Oxford Street is outside of a conservation area. The rest of the sites are in the East Marylebone or Bayswater Conservation Areas.

The proposals involve the removal of existing telephone kiosks and the installation of a new free-standing structure (referred to as a 'BT Hub' structure) which has two large LED advertising panels, coupled with telecommunications equipment. Such structures require both planning permission and advertisement consent, which the applicant has applied for in relation to each site.

In 2018, a number of prior approval and advertisement consent applications were received for the installation of InLink structures which were refused and appealed. Advertisement Consent was subsequently allowed by the Planning Inspector, including all 5 application sites. However, planning permission was not granted for the InLink structure, only advertisement consent, and were, therefore, never installed. These decisions are material considerations in the assessment of these latest applications.

The planning application sub-committee, on the 26<sup>th</sup> July 2022 approved 15 BT Hub structures identical to those proposed in these applications in and around Oxford Street and Edgware Road.

The City Council has received applications for BT Hubs across 24 sites. Of these applications the five sites referenced within this report are considered acceptable and recommended for approval. Of the remaining 19, 6 have been refused on Design grounds and some on Highways grounds and 13 are still under consideration.

The applicant explains that the suppliers of the InLink structure went into administration in 2019 and are no longer able to supply units to BT. Since then, the applicant reports that BT have been working on the similar BT Street Hub, which shares many of the same features. The BT Hubs and the LED screens are both larger than the previous InLink units and their screens.

Objections have been received from amenity societies, Metropolitan Police and one local resident on design and conservation, pedestrian movement and highways safety grounds.

The key considerations in this case are:

- The impact of the proposals on the appearance of the townscape and the setting of nearby designated heritage assets, such as listed buildings in close proximity to the site, and Conservation Areas.
- The acceptability of the proposals on visual amenity and Highway Safety grounds.

The proposals are considered to be acceptable and would accord with policies within Westminster's City Plan 2019 – 2040 (April 2021) and the 'Westminster Way' Supplementary Planning Document (2011). To enable a review of their impact and to take into account any changes to the highway, it is recommended that approvals are on a temporary basis for 5 years.

3. LOCATION PLANS

Application 1: 70-88 Oxford Street, London, W1D 1HP

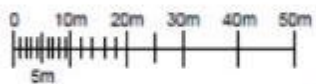
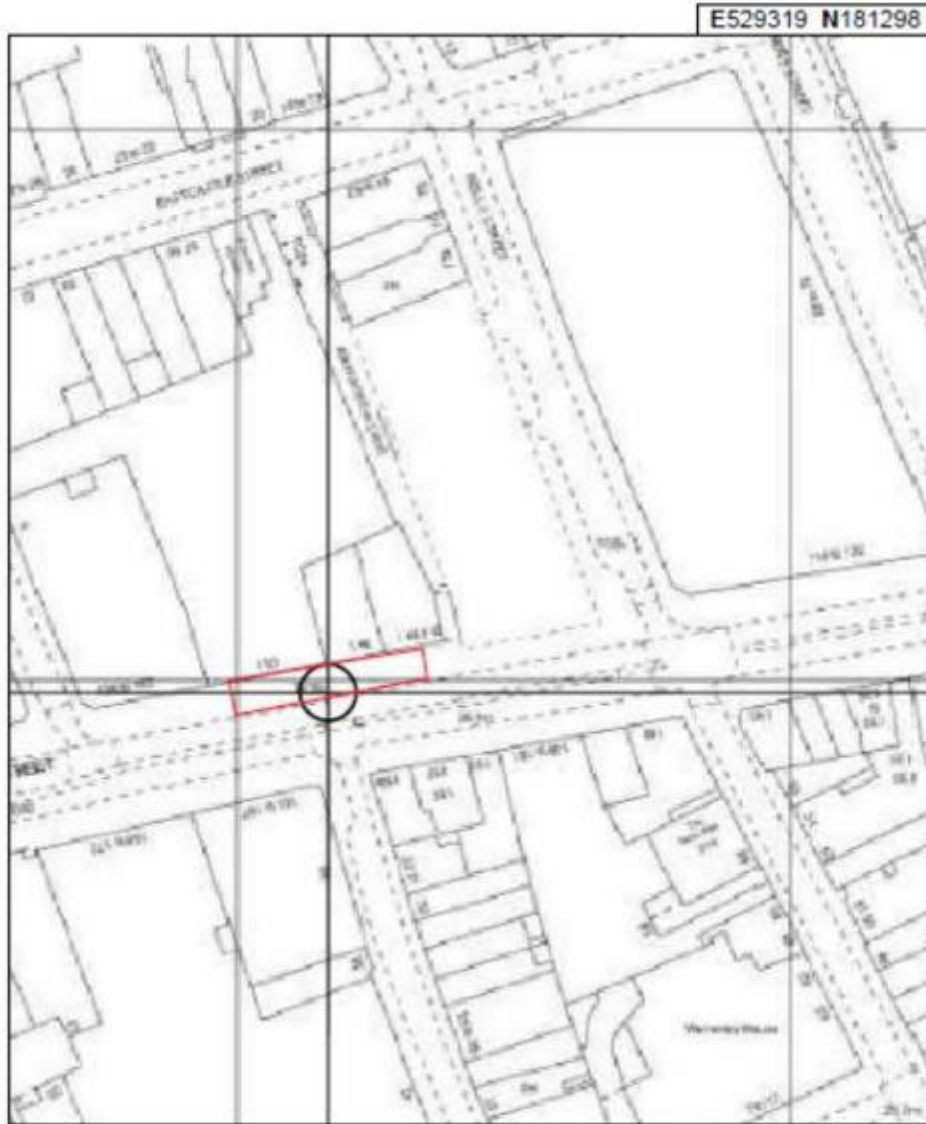


**DETAILED SITE LOCATION**

SCALE 1:1250

Ordnance Survey map extract based upon Landranger map series with the permission of the controller of Her Majesty's Stationery Office.  
Solutions30 licence no. ES100017753.

**Application 2: 150-154 Oxford Street, London, W1D 1DJ**

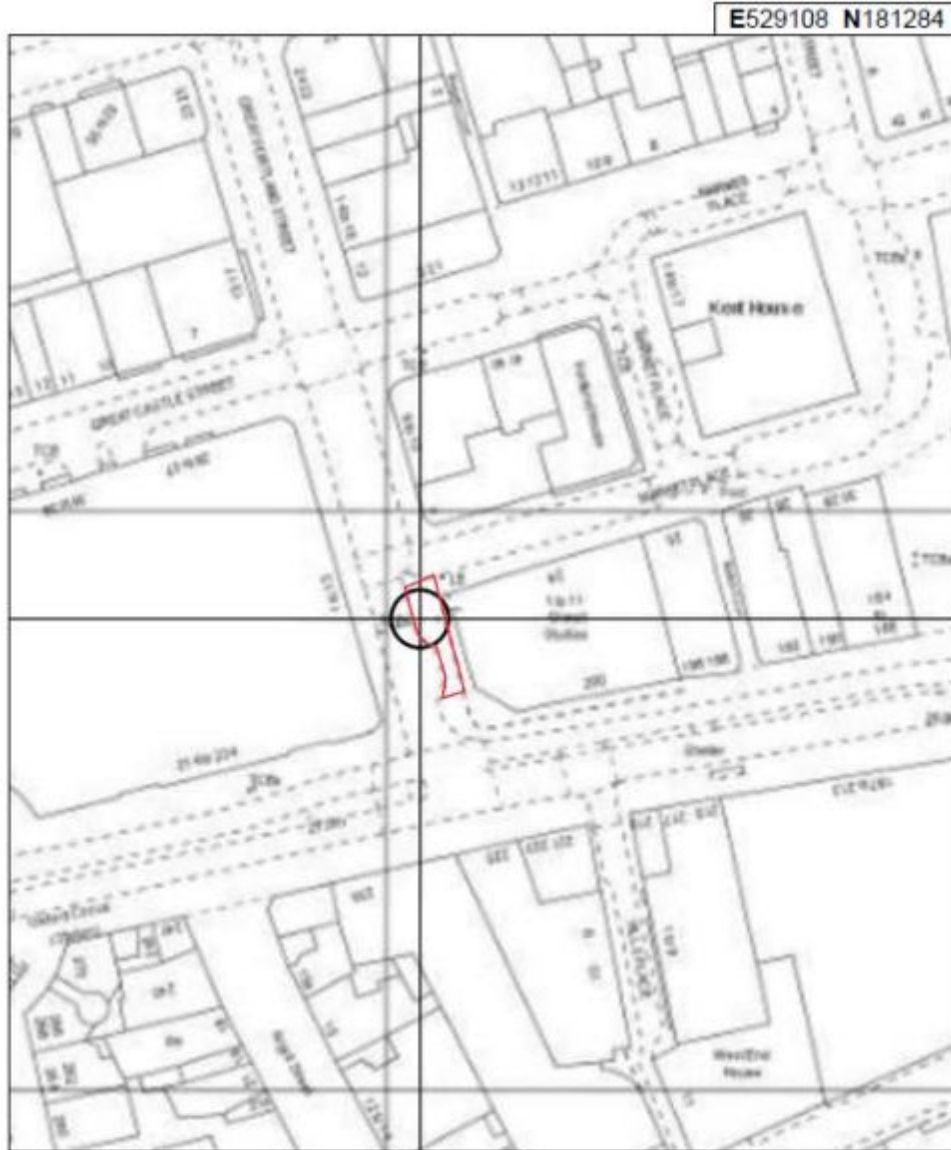


**DETAILED SITE LOCATION**

SCALE 1:1250

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**Application 3: Junction Of Great Portland Street And Market Place, London W1W 8QJ**



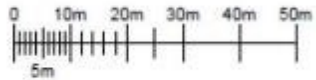
**DETAILED SITE LOCATION**

SCALE 1:1250

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**Application 4: Payphone Site Outside 74 Great Portland Street**



**DETAILED SITE LOCATION**

SCALE 1:1250

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**Application 5: 19-20, Praed Street, London W2 1JN**



**DETAILED SITE LOCATION**  
SCALE 1:1250

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4. PHOTOGRAPHS

1. 70-88 Oxford Street, London



2. 150-154 Oxford Street, London W1D 1DJ





### 3. Junction of Great Portland street and Market Place, London



4. Outside 74 Great Portland Street, London





5. Opposite 19-20 Praed Street, London W2 1JN





## 5. CONSULTATIONS

### 5.1 Application Consultations

#### Application 1: 70-88 Oxford Street, London

##### AMENITY SOCIETIES

**Fitzrovia West Neighbourhood Forum:** No Response to date

**Fitzrovia Neighbourhood Association:** No Response to date

##### HIGHWAY PLANNING MANAGER:

The Highways Planning Manager considers the proposal to be undesirable as it would obstruct pedestrian movement and does not secure an improved environment for pedestrians.

However, the proposals provide a clearway of over 2m, which satisfies 2m minimum requirement, and it is considered that the proposals could be made acceptable with conditions to mitigate the harm caused both in visual amenity and highways safety terms.

##### METROPOLITAN POLICE (DESIGNING OUT CRIME):

The Metropolitan Police considers the proposals to be undesirable as it would attract drug gangs, as well as rough sleeps and the associated challenges associated with both.

However, the applicant's company has met with the Police on a number of occasions and has developed an Anti-Social Behaviour management plan to minimise misuse. The police are happy to accept the plan at this time.

##### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 10; Total No. of replies: 0; No. of objections: 0; No. in support: 0;

**SITE NOTICE:** Yes

#### Application 2: 150-154 Oxford Street, London, W1D 1DJ

##### AMENITY SOCIETIES

**Fitzrovia West Neighbourhood Forum:** No Response to date

**Fitzrovia Neighbourhood Association:** No Response to date

##### HIGHWAY PLANNING MANAGER:

The Highways Planning Manager considers the proposal to be undesirable as it would obstruct pedestrian movement and does not secure an improved environment for pedestrians.

However, the proposals provide a clearway of over 2m, which satisfies 2m minimum requirement, and it is considered that the proposals could be made acceptable with

conditions to mitigate the harm caused both in visual amenity and highways safety terms.

**PLACESHAPING MANAGER:**

The Placeshaping Manager supports the proposals as it would result in the removal of the two existing kiosks which would declutter the street and rationalise street furniture to facilitate pedestrian movement.

However, they do have concerns regarding the location of the proposed BT Hub which is close to the kerbline, and pedestrians utilising the hub could step/ spill onto the carriageway.

**METROPOLITAN POLICE (DESIGNING OUT CRIME):**

The Designing Out Crime Officer considers the proposals to be undesirable as it would attract drug gangs, as well as rough sleeps and the associated challenges associated with both.

However, the applicant's company has met with the Police on a number of occasions and has developed an Anti-Social Behaviour management plan to minimise misuse. The police are happy to accept the plan at this time.

**ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**

No. Consulted: 362; Total No. of replies: 0; No. of objections: 0; No. in support: 0;

**SITE NOTICE:** Yes

**Application 3: Junction of Great Portland Street and Market Place, London**

**AMENITY SOCIETIES**

**Fitzrovia West Neighbourhood Forum:** No Response to date

**Fitzrovia Neighbourhood Association:** No Response to date

**HIGHWAY PLANNING MANAGER:**

The Highways Planning Manager considers the proposal to be undesirable as it would obstruct pedestrian movement and does not secure an improved environment for pedestrians.

However, the proposals provide a clearway of over 2m, which satisfies 2m minimum requirement, and it is considered that the proposals could be made acceptable with conditions to mitigate the harm caused both in visual amenity and highways safety terms.

**METROPOLITAN POLICE (DESIGNING OUT CRIME):**

The Designing Out Crime Officer considers the proposals to be undesirable as it would attract drug gangs, as well as rough sleeps and the associated challenges associated with both. It is also sited in the street in a location which is easily observed from a covered space which increases the risk of data theft, as well as phone theft.

However, the applicant's company has met with the Police on a number of occasions and has developed an Anti-Social Behaviour management plan to minimise misuse. The police are happy to accept the plan at this time.

#### **ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**

No. Consulted: 76; Total No. of replies: 0; No. of objections: 0; No. in support: 0;

**SITE NOTICE:** Yes

#### **Application 4:**

##### **AMENITY SOCIETIES:**

**Fitzrovia West Neighbourhood Forum:** No Response to date

**Fitzrovia Neighbourhood Association:** No Response to date

**TRANSPORT for LONDON:** No response to date.

##### **HIGHWAY PLANNING MANAGER:**

The Highways Planning Manager considers the proposed location of the hub to be undesirable. However, it could be made acceptable with recommended conditions.

##### **METROPOLITAN POLICE (DESIGNING OUT CRIME):**

The Designing Out Crime Officer considers the proposals to be undesirable as it would attract drug gangs and anti-social behaviour.

However, the applicant has met with the Police on a number of occasions and has produced an Anti-Social Behaviour management plan to minimise misuse. Designing Out Crime Officers consider the proposals acceptable with recommended planning conditions.

#### **PLACE SHAPING/ OXFORD STREET DISTRICT**

Officers consider the proposed to represent an improvement to the streetscape, due to the associated removal of 2 historic BT phone boxes. There is a concern that the hub is located close to the kerb.

#### **ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**

No. Consulted: 76; Total No. of replies: 0; No. of objections: 0; No. in support: 0

**SITE NOTICE:** Yes

#### **Application 5:**

##### **WARD COUNCILLOR**

**Councillor Dimoldenberg:** Response to be reported at committee

**Councillor Chowdhury:** Response to be reported at committee

**Councillor Southern:** Response to be reported at committee

**AMENITY SOCIETIES:**

**Paddington Waterways and Maida Vale Society:** No Response to date

**South East Bayswater Residents' Association:** No Response to date

**HIGHWAY PLANNING MANAGER:**

The Highways Planning Manager considers the proposal is to be undesirable as it is located close to a busy road. However, the proposals provide a clearway of approx. 2.5m, which satisfies 2m minimum requirement, and it is considered that the proposals could be made acceptable with conditions to mitigate the harm caused both in visual amenity and highways safety terms.

**WASTE PROJECT OFFICER:**

No Objection

**METROPOLITAN POLICE (DESIGNING OUT CRIME):**

The Metropolitan Police raise objection to the proposals as there is an ongoing gang problem specifically in the Paddington Basin and Praed Street. The BT Hubs facility for free calls will attract current and new drug gangs to operate with associated anti-social behaviour negatively impacting on local residents and businesses.

However, the applicant has met with the Police and has produced an Anti-Social Behaviour Management Plan and Noise Management Plan to minimise misuse.

**ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**

No. Consulted: 197;  
Total No. of replies: 1  
No. of objections: 1  
No. in support: 0

A resident has raised objection on a mixture of design and highways grounds, the proposal would add excessive advertisements and harm the visual amenity of the area, clutter the appearance of the street and narrowing the pedestrian path, increase energy consumption, light pollution for residents in nearby flats, worsen current anti-social behaviour-loitering and nuisance noise at night.

**SITE NOTICE:**

Yes

**5.2 Applicant's Pre-Application Community Engagement**

The Council's Early Community Engagement in Westminster guidance note sets out what is expected of developers in terms of community engagement prior to the submission of a planning application. It advises that where non-major development would have a significant impact, early engagement is encouraged. In this case, the applicant has not carried out an early engagement.

## **6. WESTMINSTER'S DEVELOPMENT PLAN**

### **6.1 City Plan 2019-2040 & London Plan**

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise

### **6.2 Neighbourhood Planning**

#### **Applications 1, 2, 3 and 5**

These application sites are not located within an area covered by a Neighbourhood Plan.

#### **Application 4**

The site is located in the adopted Fitzrovia West Neighbourhood Plan 2020 to 2040, July 2021.

The Fitzrovia West Neighbourhood Plan includes policies on a range of matters including promotion of regeneration, provision of housing, entertainment uses, community facilities, provision of small business units, provision of active frontages, open spaces, environmental performance, and servicing.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 2 September 2021. It was adopted on 8 October 2021. It therefore forms part of the development plan for Westminster for development within the Fitzrovia West neighbourhood area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Policies B2 and T1 are of particular relevance in this case.

### **6.3 National Policy & Guidance**

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

## **7. BACKGROUND INFORMATION**

### **7.1 The Application Sites**

The applications relate to areas of pavement outside or near the following address:



1. 70-88 Oxford Street, London,
2. 150-154 Oxford Street, London, W1D 1DJ
3. Junction Of Great Portland Street and Market Place, London
4. 74 Great Portland Street
5. Opposite 19-20 Praed Street, London W2 1JN

## 7.2 Recent Relevant History

### Background:

The five sites all have a history of refused prior approval and advertisement consents applications (outlined below) for 'InLink' telecommunication and advertisement structures. The prior approval applications were submitted because the applicant considered that the structures did not require planning permission. In relation to appeal decisions for separate sites, Westminster contended in the High Court that structures incorporating advertising and telecommunications do not have permitted development rights. The High Court agreed, finding that such structures had a dual use as both a telephone kiosk and for the advertising panel and therefore did not sit within the scope of the relevant General Permitted Development Order (GPDO) class (Part 16 Class A). The Court of Appeal upheld this judgment.

The GPDO and the Advertisement Regulations have been amended to remove the relevant permitted development right and the deemed advertising consent. However, the judgment emphasises the requirement for any development to fall entirely within the applicable class of the GPDO to benefit from the permitted development right. Mixed use development cannot generally fall within the scope of a GPDO class because, if it were to be able to do so, the GPDO could and would be used for permitting development for something outside its scope. Which is what applicants had previously sought in relation to these structures.

After the judgement, the applicant for the Inlink structures withdrew the prior approval applications but continued with the advertisement consent appeals.

### Application 1: 70-88 Oxford Street, London

On 10 October 2018, the City Council refused prior approval and advertisement consent for Display of two internally illuminated digital LED screens, one on each side of a freestanding structure ('InLink') measuring 889 mm x 280 mm x 2900 mm. On the grounds of harm to the appearance (amenity) of the area. (RNs: 18/06986/ADV and 18/06985/TELCOM)

On 22 November 2018, the Planning Inspectorate notified the City Council of appeals pursuant to the above refusals. The applicant subsequently withdrew the prior approval appeal (because the structure required planning permission) but continued with the advertisement consent appeal.

On 7 August 2019, the Planning Inspectorate allowed the advertisement consent appeal, subject to conditions, stating: *"The proposal is of a modern design and would not be out of keeping with the existing mix of architectural designs in the surrounding area. The*

*advertisements would be taller than the existing telephone kiosks however, in the context of the wider retail area, with large shop fronts displaying signage and advertisements, the proposal would not appear as an incongruous feature.”*

### **Application 2: 150-154 Oxford Street, London, W1D 1DJ**

On 22 August 2018, the City Council refused prior approval and advertisement consent for Display of two internally illuminated digital LED screens, one on each side of a freestanding structure ('InLink') measuring 889 mm x 280 mm x 2900 mm. On the grounds of harm to the appearance (amenity) of the area. (RNs: 18/04403/ADV and 18/04402/TELCOM)

On 16 October 2018, the Planning Inspectorate notified the City Council of appeals pursuant to the above refusals. The applicant subsequently withdrew the prior approval appeal (because the structure required planning permission) but continued with the advertisement consent appeal.

On 7 August 2019, the Planning Inspectorate allowed the advertisement consent appeal, subject to conditions, stating: “ *The proposed advertisements are sensitive in scale, height, location and level of illumination, particularly when viewed against the back drop of the large and visually prominent signage visible around the Sports Direct store. The proposal would not have an adverse effect on the visual amenity of the surrounding area.*”

### **Application 3: Junction of Great Portland Street and Market Place, London**

On 21 August 2018, the City Council refused prior approval and advertisement consent for the display of two internally illuminated digital LED screens, one on each side of a freestanding structure ('InLink') measuring 889 mm x 280 mm x 2900 mm. On the grounds of harm to the appearance (amenity) of the area. (RNs: 18/04415/ADV and 18/04414/TELCOM)

On 08 October 2018, the Planning Inspectorate notified the City Council of appeals pursuant to the above refusals. The applicant subsequently withdrew the prior approval appeal (because the structure required planning permission) but continued with the advertisement consent appeal.

On 07 August 2019, the Planning Inspectorate allowed the advertisement consent appeal, subject to conditions, stating: “*There are retail properties within close proximity to the site which have shop windows that display advertisements and signage that are illuminated and would be much larger than the proposed advertisements. Due to the size and level of illumination of the proposed advertisements, they would not appear as incongruous features within this existing setting.*”

### **Application 4: 74 Great Portland Street**

On 11 October 2018 the City Council refused prior approval and advertisement consent for the display of two internally illuminated digital LED screens, one on each side of a freestanding structure ('InLink') measuring 889 mm x 280 mm x 2900 mm. On the grounds of harm to the appearance (amenity) of the area. (RNs.18/07019/ADV &

18/07018/TELCOM).

On 13<sup>th</sup> November 2018 the Planning Inspectorate notified the City Council of appeals pursuant to the above refusals. The applicant subsequently withdrew the prior approval appeal (because the structure required planning permission) but continued with the advertisement consent appeal.

On 7<sup>th</sup> August 2019 the Planning Inspectorate allowed the advertisement consent appeal, subject to conditions, stating *“the surrounding area has a cluttered appearance with various street furniture including waste bins, streetlights, road signs and telephone kiosks. The proposal would blend in with this existing street paraphernalia and be an unobtrusive object within the street scene. The proposed height, form and level of illumination would not be dominant set within the existing street clutter and would not detract from the character and appearance of the EMCA or nearby HSCA”*. (PINS Ref: APP/X5990/Z/18/3216139)

Advertisement consent was also refused on the 22<sup>nd</sup> of March 2012 (12/01087/ADV) for the display of a single sided vinyl advert measuring 704mm x 1800mm attached to one glazed face of each of two conjoined payphones located outside No. 74 Great Portland Street (south of junction with Riding House Street). A subsequent appeal was dismissed by the Planning Inspectorate on 24 September 2007 (PINS Ref: APP/X5990/H/12/2176252).

#### **Application 5: Opposite 19-20 Praed Street London W2 1JN**

On 22<sup>nd</sup> August 2018 the City Council refused prior approval and advertisement consent for the removal of existing BT payphones kiosks and the erection of a freestanding ('InLink') structure with two LED advertising panels and associated telecommunications equipment. On the grounds of harm to the appearance (amenity) of the area. (RNs. 18/04395/ADV & 18/04394/TELCOM).

On 16<sup>th</sup> October 2018 the Planning Inspectorate notified the City Council of appeals pursuant to the above refusals. The applicant subsequently withdrew the prior approval appeal (because the structure required planning permission) but continued with the advertisement consent appeal.

On 14<sup>th</sup> November 2019 the Planning Inspectorate allowed the advertisement consent appeal, subject to conditions, stating *“there is a significant level of street furniture in the vicinity of the site, including a double lamp post, a kiosk which holds an advertisement in poster form, a bus shelter with two illuminated digital advertisements, and navigational posts. These have a generally modern and well-kept appearance. The appeal site currently holds two payphone kiosk. They have a dilapidated appearance which is out of keeping with their modern and generally well-kept surroundings. They consequently have a harmful effect on the amenity of the area.”...“the proposed advertisements would harmonise better with their context of modern and well-kept street furniture and built form than the existing kiosk.”....“The proposed screens would not appear so large as to be incongruous within this highly commercial area. Therefore, the advertisements would not have undue prominence within their setting.”* (PINS Ref: APP/X5990/Z/18/3214132)

## 8. THE PROPOSAL

The applicant proposes to install new free-standing structures (referred to as a 'BT Hub' structure), which comprises two large LED advertising panels and telecommunications equipment, in the five locations outlined above. Such structures require both planning permission and advertisement consent, which the applicant has applied for in relation to each site.

The BT Hubs measure 1236mm wide x 350mm deep x 2980mm high and the LED screens, one on each side of a freestanding structure, measure 926mm x 1870mm. (This compares with the InLink structures that measured 889mm wide x 280mm deep x 2895mm high, with screens that measured 690mm x 1210mm.) The structures provide free public Wi-Fi, free UK calls, USB charging and an emergency services button. The BT hubs also include environmental sensors, 'insight counting' and small cell mobile connectivity to improve 5G coverage.

The applicant explains that the suppliers of the InLink structure went into administration in 2019 and are no longer able to supply units to BT. Since then, the applicant reports BT have been working on the similar the BT Street Hub – which shares many of the same features.

While the structures provide a mix of telecommunications and advertising functions, the City Council consider it to be apparent that the primary purpose of these structures is for advertising.

As a general principle the City Council does not consider that existing kiosks should be regarded as an opportunity for other commercial uses, including advertising. They were installed in the streets for the purpose of telecommunications only, in accordance with the permitted development provisions of the Town and Country Planning (General Permitted Development) Order. Now that the original function is largely, if not wholly, unnecessary, they should be removed, in accordance with the conditions which form part of the permitted development provision.

The kiosks sought to be removed are considered to make a negative contribution to the appearance of the streetscape, and some have been identified as problematic due to their associations with antisocial behaviour. Their removal is considered to be beneficial. If it is the case that at least one of the kiosks is superfluous then they should in any case be removed under the conditions of Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

## 9. DETAILED CONSIDERATIONS

### 9.1 Land Use

The proposals are considered to be acceptable in land use terms.

### 9.2 Environment & Sustainability

Applicant has explained that since the rollout of InLinks, there has been increased focus on green initiatives and environmental monitoring. Street Hubs take this into account and

have sensors that can count pedestrian, cyclist and vehicle movements as well as monitor air, sound and light. This free information has its own dashboard and will help the planning system actively manage patterns of growth in support of national air quality objectives and the Governments ten-point plan for a Green Industrial Revolution.

### 9.3 Biodiversity & Greening

Not applicable.

### 9.4 Townscape, Design & Heritage Impact and Highways Impact

#### Policy Context:

The National Planning Policy Framework (2021) is supportive of the expansion of electronic communication networks in paragraphs 114-118. However, it does state that where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate. Paragraph 118 states local planning authorities must determine applications on planning grounds.

The development plan for Westminster consists of:

- Westminster's City Plan, adopted on 21st April 2021.
- The Mayor of London's London Plan (published 2021).

In considering the proposals the City Council has had regard to:

- a) Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 which states that in considering whether to grant planning permission local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historical interest which it possesses.
- b) Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 which relates to need to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

The relevant City Plan policies are:

Policy 19: Digital Infrastructure, information and communications technology States that:  
(A). Investment in digital and telecommunications infrastructure will be supported. The public benefits of proposals for new infrastructure will be weighed against impacts on local character, heritage assets, or the quality of the public realm.

(D). Opportunities for co-location, shared facilities and innovations such as smart street furniture should be explored where new digital and telecommunications infrastructure is proposed and proposals for standalone apparatus should demonstrate that such opportunities have been exhausted. Proposals on the highway should also demonstrate that it is not feasible to locate on existing buildings or other structures.

Policy 24 (Sustainable Transport) states:

Development must positively contribute towards the improvement of its public transport nodes in terms of accessibility and legibility and the improvement and delivery of walking and cycling routes that serve a site in order to create an environment where people



actively choose to walk and cycle as part of everyday life.

Paragraph 24.6 states: Approximately 1.1 million visitors step into Westminster each weekday so ensuring that all highways and public realm projects prioritise the needs of the pedestrian is essential.

Policy 25 (Walking and Cycling) states:

Development must promote sustainable transport by prioritising walking and cycling in the city.

Part B states that development must prioritise and improve the pedestrian environment and contribute towards achieving a first-class public realm particularly in areas of kerbside stress, including the provision of facilities for pedestrians to rest and relax (including seating) and high-quality and safe road environments and crossings, where needed.

Policy 38 (Design Principles) states:

New development will incorporate exemplary standards of high quality, sustainable and inclusive urban design and architecture befitting Westminster's world-class status, environment and heritage and its diverse range of locally distinctive neighbourhoods. All development will positively contribute to Westminster's townscape and streetscape, having regard to the character and appearance of the existing area, adjacent buildings and heritage assets, the spaces around and between them and the pattern and grain of existing streets, squares, mews and passageways.

Policy 39 (Westminster's Heritage) states:

Westminster's unique historic environment will be valued and celebrated for its contribution to the quality of life and character of the city. Public enjoyment of, access to and awareness of the city's heritage will be promoted. Development must optimise the positive role of the historic environment in Westminster's townscape, economy and sustainability, and will:

- ensure heritage assets and their settings are conserved and enhanced, in a manner appropriate to their significance
- place heritage at the heart of place making and good growth, maintaining the unique character of our heritage assets and delivering high quality new buildings and spaces which enhance their settings.

Part I states that development within the settings or affecting views of listed buildings will take opportunities to enhance or better reveal their significance.

Part K states that development will preserve or enhance the character and appearance of Westminster's conservation areas. Features that contribute positively to the significance of conservation areas and their settings will be conserved and opportunities taken to enhance conservation areas and their settings, wherever possible.

Policy 40 (Townscape and architecture) states:

Spaces and features that form an important element in Westminster's local townscapes or contribute to the significance of a heritage asset will be conserved, enhanced and sensitively integrated within new development.

Policy 43 (Public Realm) states:

Development will contribute to a well-designed, clutter-free public realm with use of high quality and durable materials capable of easy maintenance and cleaning, and the integration of high-quality soft landscaping as part of the streetscape design.

Part G states that signs and advertisements will make a positive contribution to amenity or public safety by being sensitively designed in terms of their size, location and degree of illumination, their impact on the building on which they are displayed, local context, street-scene and wider townscape.

Paragraph 43.16 states: Although they play a role in providing information, control of signs and advertisements is important as they can have significant impacts on the quality and appearance of the street scene and upon the building on which they are displayed. They may also affect amenity and public safety, including highway safety, and can damage the appearance of the streetscape and the architectural integrity of our built environment.

#### London Plan

Policy T3 part B(3) states that development Plans and development decisions should ensure the provision of sufficient and suitably-located land for the development of the current and expanded public and active transport system to serve London's needs, including by safeguarding London's walking and cycling networks.

Policy T4 part E states that the cumulative impacts of development on public transport and the road network capacity including walking and cycling, as well as associated effects on public health, should be taken into account and mitigated.

Paragraph 10.4.3 states that it is important that development proposals reduce the negative impact of development on the transport network and reduce potentially harmful public health impacts. The biggest transport-related impact of development on public health in London is the extent to which it enables physical activity from walking, cycling and using public transport.

#### Historic England Guidance

The Historic England document 'Streets for All, London' has guidance on how to manage the historic environment. On page three there is a photograph of a BT InLink advertising structure, which is similar to the proposed BT Hubs. The text below the photograph states:

Of particular concern in terms of street clutter that shouts its presence, are advertisements attached to street furniture. In London these are increasingly being located in highly trafficked and often historically sensitive areas. Historic England is worried about the degrading effect these have on the character of conservation areas and the setting of listed buildings, with damaging impacts exacerbated when digital screens and internally illuminated signs are used.

#### 'Westminster Way' Supplementary Planning Document

The 'Westminster Way' Supplementary Planning Document (2011) combines urban design and highways issues and advice. It provides guidance on the installation of new street furniture and specifically considers the installation of new payphone kiosks. It

seeks to minimise clutter and ensure a neat and elegant townscape. Specifically in relation to the location of telephone kiosks, Appendix 1 (page 106) states that they must be sited sensitively in relation to the surrounding area, and should not be located in close proximity to one another.

The 'Westminster Way' (pages 17-18) sets out ten rules as part of a Westminster Code. Rule 4 - 'Clutter Free' seeks to minimise the occurrence of furniture obstruction, by removing obsolete, duplicated or unnecessary items, co-locating elements where appropriate and only installing new items where considered absolutely necessary. The public realm will also be managed in such a way that any such clutter is removed so it is maintained to minimal levels. This will ensure ease of pedestrian movement and the delivery of a truly inclusive and neat public realm.

#### Considerations:

#### **Application 1: 70-88 Oxford Street, London**

The application site lies on the pavement outside 70-88 Oxford Street located just outside the East Marylebone and Soho Conservation Areas. The nearby 105-109 Oxford Street is listed at grade II. The site is surrounded by street furniture including a traffic light for a pedestrian crossing, a set of bins, and a streetlight. The BT kiosks which are proposed to be removed are sited in the exact spot which the BT Hub is proposed to be installed.

No objections have been received although Highways Planning, and the Metropolitan Police have noted that the proposals are undesirable and recommended conditions to mitigate their concerns.

In this busy commercial context, within the vicinity of modern street future, the proposals are not considered to unduly harm the visual amenity of the area. The proposals cannot reasonably be resisted on townscape grounds.

There is a pedestrian clearway of approx. 4.6m from the end of the proposed street Hub to the building line and while this measure satisfies Westminster Way's public realm strategy recommendation which requires a minimum 2m pedestrian clearway, it is considered that the Street Hub will not have an unacceptable impact pedestrian movement. Given their size the displays will not have a detrimental impact in terms of highway safety.

Accordingly, it is considered that it would not be sustainable to refuse the applications on highways grounds, subject to conditions.

#### **Application 2: 150-154 Oxford Street, London, W1D 1DJ**

The application site lies on the pavement outside 150-154 Oxford Street in the East Marylebone Conservation Area and is directly next to the Soho Conservation Area. There are a number of surrounding listed buildings including 156-162 Oxford Street which is listed at grade II\*. The BT kiosks proposed to be removed are sited in the same location as the BT Hub which is proposed to be installed.

No objections have been received although Highways Planning, and the Metropolitan Police have noted that the proposals are undesirable and recommended conditions to mitigate their concerns.

In this busy commercial context, within the vicinity of modern street future, the proposals are not considered to unduly harm the visual amenity of the area. The proposals cannot reasonably be resisted on townscape grounds.

There is a pedestrian clearway of approx. 4.7m from the end of the proposed street Hub to the building line and while this measure satisfies Westminster Way's public realm strategy recommendation which requires a minimum 2m pedestrian clearway, it is considered that the Street Hub will not have an unacceptable impact pedestrian movement. Given their size the displays will not have a detrimental impact in terms of highway safety.

Accordingly, it is considered that it would not be sustainable to refuse the applications on highways grounds, subject to conditions.

### **Application 3: Junction of Great Portland Street and Market Place, London**

The application site lies at the southern end of Great Portland Street near the junction with Market Place. The site lies within the East Marylebone Conservation Area, and just outside the Regent Street Conservation Area. On the site there is various street furniture including two existing BT Kiosks which are proposed to be removed, bike racks, a streetlamp, as well as a mature tree. There are a number of nearby listed buildings including the Peter Robinson building (grade II) located immediately across from the site.

No objections have been received although Highways Planning, and the Metropolitan Police have noted that the proposals are undesirable and recommended conditions to mitigate their concerns.

In this busy commercial context, in the presence of mature trees, and within the vicinity of modern street future, the proposals are not considered to unduly harm the visual amenity of the area. The proposals cannot reasonably be resisted on townscape grounds.

The proposal leaves a pedestrian clearway of over 2.8m from the proposed street Hub to the building line and satisfies the City Council's 2m minimum requirement, it is considered that the Street Hub will not have an unacceptable impact pedestrian movement. Given their size the displays will not have a detrimental impact in terms of highway safety.

Accordingly, it is considered that it would not be sustainable to refuse the applications on highways grounds, subject to conditions.

### **Application 4: 74 Great Portland Street**

The application site lies outside of 74 Great Portland Street, on the east side of the road. It is located within the East Marylebone Conservation Area and can be seen from within the Harley Street Conservation Area to the north. Nos 78 and 80 are Grade II listed

buildings. Two telephone boxes exist on the site of the proposed street hub. The application proposes removal of this existing kiosks and the installation of a single hub.

No objections have been received although Highways Planning, and the Metropolitan Police have noted that the proposals are undesirable and recommended conditions to mitigate their concerns.

The proposals will enable the removal of two existing telephone boxes which will see a reduction in clutter to the street. While the larger size of the proposed BT kiosk, when compared with the previous applications, is undesirable and there are concerns that it will appear visually prominent in the streetscene. However, given that the street has a commercial character and the BT hub will allow the removal of the two phone boxes, the proposals are considered to be acceptable on balance.

The proposal leaves a pedestrian clearway of over 2.88m from the proposed street Hub to the building line and satisfies the City Council's 2m minimum requirement, it is considered that the Street Hub will not have an unacceptable impact pedestrian movement. Given their size the displays will not have a detrimental impact in terms of highway safety.

Accordingly, it is considered that it would not be sustainable to refuse the applications on highways grounds, subject to conditions.

#### **Application 5: Opposite 19-20 Praed Street, London W2 1JN**

The application site comprises of 2 BT telephone kiosks located on the north side of Praed Street between junctions with Harbet Road and Sale Place, on the pavement outside 2/3 Praed Street. They form part of the Bayswater Conservation Area. The Westminster Arms is a grade II listed public house at the corner with Harbet Road. The application proposes removal of this existing kiosks and the installation of a single hub.

One objection is raised by a local resident and one objection from the Metropolitan Police. A resident has raised objection on a mixture of design and highways grounds, the proposal would add excessive advertisements and harm the visual amenity of the area, clutter the appearance of the street and narrowing the pedestrian path, light pollution for residents in nearby flats, increase energy consumption and worsen current anti-social behaviour-loitering and nuisance noise at night.

The Metropolitan Police raise objection to the proposals as there is on ongoing gang problem specifically in the Paddington Basin and Praed Street. The BT Hubs facility for free calls will attract current and new drug gangs to operate with associated anti-social behaviour negatively impacting on local residents and businesses.

Whilst these matters raise serious concerns, the applicant has produced an Anti-Social Behaviour Management Plan, Noise Management Plan and considered The Brightness of illuminated advertisement produced by the Institute of Lighting Professionals. The Street Hubs would be able to recognise and identify possible misuse and permanently block numbers for using the hub. The Street Hub is designed as a 'sound cloud' where it is possible to make a call with background noise and the hubs would have controllable volume levels, differing between daytime and night time. The average daily volume

setting is 65dB average at 3m distance. Therefore, with these measures in place they would overcome the raised objection.

There are specific material considerations at this site with an allowed appeal for express consent for a similar structure in 2019, whereby the appeal structure and advertisement were considered to harmonise with the existing mixture of street furniture and would not appear large within a highly commercial area and would not have undue prominence in the street scene.

The proposals will enable the removal of two existing dilapidated telephone boxes which will see a reduction in clutter to the street. The larger size of the proposed BT Street Hubs, when compared with the previous applications, is undesirable and there are concerns that it will appear visually prominent in the streetscene. However, given that the street has a commercial character and the BT hub will allow the removal of the two phone boxes, the proposals are considered on balance to be acceptable.

The proposal leaves a pedestrian clearway of over 2.5m from the proposed street Hub to the building line and satisfies the City Council's 2m minimum requirement, it is considered that the Street Hub will not have an unacceptable impact pedestrian movement. Given their size the displays will not have a detrimental impact in terms of highway safety.

Accordingly, it is considered that it would not be sustainable to refuse the applications on highways grounds, subject to conditions.

## **9.5 Residential Amenity**

Due to their size and position on highway, it is considered that the Street Hubs would not have a detrimental impact in terms of loss of light, overlooking, sense of enclosure or loss of privacy over the existing situation.

As part of their submission the applicant has included an Anti-social Behaviour Management Plan. In it they highlight that the existing unused kiosks are often prime sites for Anti-social behaviour and vandalism, and state that they intend to work with local stakeholders to prevent this occurring at the new Street Hubs.

The proposals are considered to be acceptable in amenity terms.

## **9.6 Economy including Employment & Skills**

The improvements in digital infrastructure and connectivity that are proposed are intended to support future economic growth and in this respect are acceptable.

## **9.7 Other Considerations**

### **Radiation Levels**

The applicants have provided the relevant ICNIRP certification confirming that individually and cumulatively, the installation is within acceptable limits of non-ionising radiation levels and will not harm human health. The application in this respect complies

with the guidance contained in the NPPF and planning practice guidance, as such it would not be reasonable for the City Council to uphold any objection on health-related grounds.

### **9.8 Environmental Impact Assessment**

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

### **9.9 Planning Obligations & Pre-Commencement Conditions**

Planning obligations are not relevant in the determination of this application and no pre-commencement conditions are recommended.

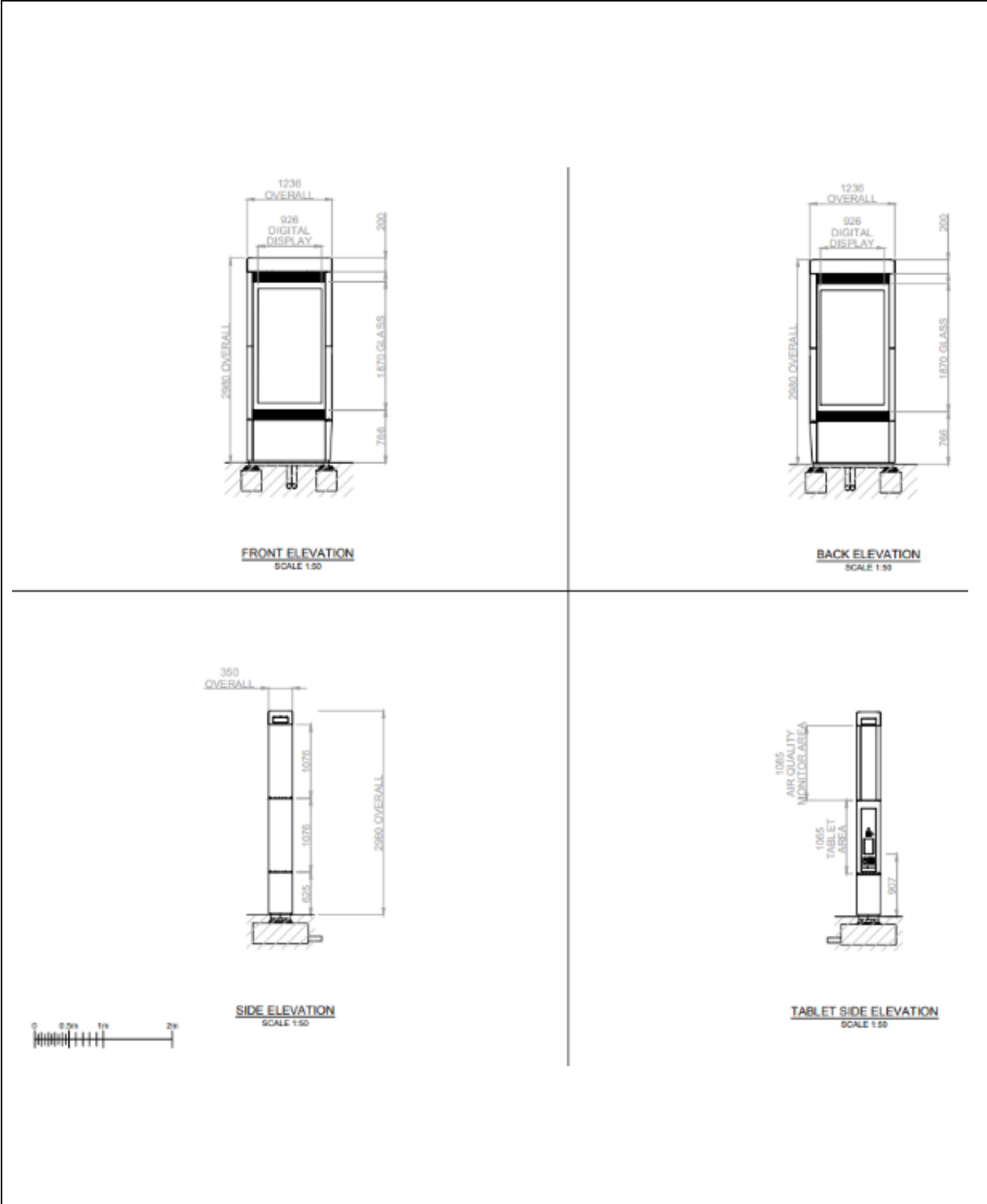
### **10. Conclusion**

It is considered that the visual harm of the hubs would be limited, there would be sufficient pavement width remaining not to impede pedestrian movement and that the advertisements would not pose a highway safety issue. The fact that Advertisement Consent was allowed by the Planning inspector, on all five application sites, is also a strong material consideration in the assessment of the applications. Accordingly, it is considered that the proposals are acceptable in land use, design and conservation, residential amenity and highways terms and comply with Policies 19, 24, 25, 38, 39, 40, 43 of the Westminster City Plan (April 2021) and the "Westminster Way" Supplementary Planning Document. The applications are therefore recommended for conditional approval, for a temporary period of five years.

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

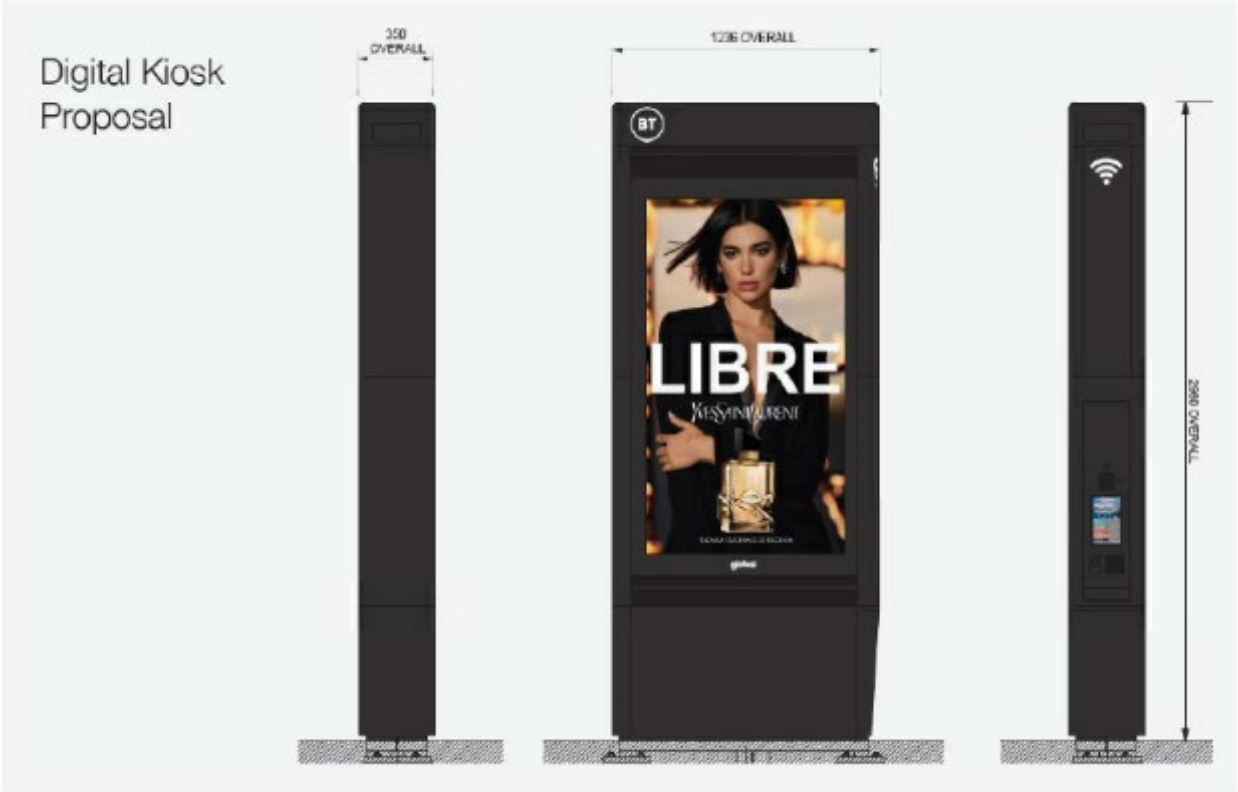
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk)

**11. KEY DRAWINGS**





Visual of BT Hub



**EXAMPLE DRAFT PLANNING PERMISSION DECISION LETTER (conditions are the same for each of the 5 applications)**

**Address:** 70-88 Oxford Street, London

**Proposal:** Removal of BT kiosks and installation of a BT Street Hub, incorporating two digital 75" LCD advert screens and telephone, on the pavement (in the above locations).

**Reference:** 22/04754/FULL

**Plan Nos:** 001A, 002A, 003A.

**Case Officer:**

**Direct Tel. No.** 020 7641  
07866040589

**Recommended Condition(s) and Reason(s)**

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 The permitted maximum luminance of the two digital display screens shall not exceed the level of 600cd/m<sup>2</sup> if illuminated area is less than 10m<sup>2</sup>, if larger its 300cd/m<sup>2</sup>; during hours of darkness and all specifications shall be in accordance with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's 'Professional Lighting Guide 05 (PLG05): The Brightness of Illuminated Advertisements'.

Reason:

To protect the visual amenity of the area.

- 3 The illumination and advertisement/displayed image shall not be intermittent or flashing, not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements), not incorporate changing light patterns, and shall show two dimensional images only. (Please note the illumination of the proposed Hubs will need to adhere to limits of luminance, illuminance and intensity as advised in PLG05 [see Section 5 of Limiting the luminance of illuminated advertisements], and Guidance Note 01: The Reduction of Obtrusive Light).

Reason:

To protect the visual amenity of the area and in the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021).

- 4 No content on the digital display screens shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.

Reason:

In the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24BD)

- 5 No audio associated with the advertisements.

Reason:

To protect the amenity of the area.

- 6 Messages relating to the same product shall not be sequenced.

Reason:

To protect the visual amenity of the area.

- 7 The advertisements displayed on each panel shall not change more frequently than once every 15 seconds.

Reason:

To protect the visual amenity of the area.

- 8 The interval between each piece of content on the digital display screens shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction.

Reason:

To protect the visual amenity of the area.

- 9 The footway and carriageway of the concerned public highway must not be blocked during the installation and maintenance of the proposal. Temporary obstruction during the installation / maintenance must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrian or obstruct the flow of traffic.

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 10 The proposed BT Street Hubs shall be maintained in a condition that does not impair the visual amenity of the site.

Reason:

To protect the visual amenity of the area.

- 11 All vehicles associated with the works must only park / stop at permitted locations and within the time periods permitted by existing on-street restrictions.

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 12 The structure can remain for five years from the date of this letter. After than you must remove it and return the land to its previous condition.

Reason:

So that we can assess the effect of the structure and make sure it meets policy 24, 25, 38, 39, and 43 of the City Plan 2019-2040 (April 2021).

### **Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.

**EXAMPLE DRAFT ADVERTISEMENT CONSENT DECISION LETTER (conditions are the same for each of the 5 applications)**

**Address:** 70-88 Oxford Street, London

**Proposal:** Display of two internally illuminated digital 75" LCD display screens measuring 1.67m x 0.95m on each side of the Street Hub unit.

**Reference:** 22/04755/ADV

**Plan Nos:** 001A, 002A, 003A.

**Case Officer:**

**Direct Tel. No.** 020 7641  
07866040589

**Recommended Condition(s) and Reason(s)**

**Standard Conditions:**

- (1) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- (2) No advertisement shall be sited or displayed so as to –
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- (3) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- (4) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- (5) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

**Additional Condition(s):**

- 1 You can display the advert for five years from the date of this letter. You must then remove it without delay.

Reason:

So that we can assess the effect of the advert and make sure it meets policy 24, 25, 38, 39, 43 of the City Plan 2019-2040 (April 2021).

- 2 The permitted maximum luminance of the two digital display screens shall not exceed the level of 600cd/m<sup>2</sup> if illuminated area is less than 10m<sup>2</sup>, if larger its 300cd/m<sup>2</sup>; during hours of darkness and all specifications shall be in accordance with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's 'Professional Lighting Guide 05 (PLG05): The Brightness of Illuminated Advertisements'.

Reason:

To protect the visual amenity of the area.

- 3 The illumination and advertisement/displayed image shall not be intermittent or flashing, not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements), not incorporate changing light patterns, and shall show two dimensional images only. (Please note the illumination of the proposed Hubs will need to adhere to limits of luminance, illuminance and intensity as advised in PLG05 [see Section 5 of Limiting the luminance of illuminated advertisements], and Guidance Note 01: The Reduction of Obtrusive Light).

Reason:

To protect the visual amenity of the area and in the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021).

- 4 No content on the digital display screens shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.

Reason:

In the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24BD)

- 5 No audio associated with the advertisements.

Reason:

To protect the amenity of the area.

- 6 Messages relating to the same product shall not be sequenced.

Reason:

To protect the visual amenity of the area.

- 7 The advertisements displayed on each panel shall not change more frequently than once every 15 seconds.

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To protect the visual amenity of the area.

- 8 The interval between each piece of content on the digital display screens shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction.

Reason:

To protect the visual amenity of the area.

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