

Appeal against the City of Edinburgh Council's refusal of Planning Permission

Appeal Site:

Pavement o/s Nicolson Square Gardens, Nicolson Street, Edinburgh, EH8 9BH (E326080, N673187)

Our BT Street Hub Ref:

EDN101

Council LPA Ref(s):

22/01506/FUL

Proposal:

Removal of (3) existing BT payphones and the installation of (1) freestanding BT Street Hub providing free ultrafast Wi-Fi and other community services and with excess space returned to the community.

Associated BT Public Kiosk Removals:

Pavement o/s Nicolson Square Gardens, Nicolson Street, Edinburgh, EH8 9BH (E326080, N673187)



Image 1 – Existing Streetscene



Image 2 – Photomontage illustrating Proposed Streetscene

Appendix

Appendix A – Application submission

Appendix B – Pre-Application Consultation

Appendix C – Planning and design drawings

Appendix D – Full Planning application Decision Notice

Appendix D – Full Planning Officers Report

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

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

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

Appendix H – Appeal Ref APP/K5030/Z/18/3211426 Outside 322 High Holborn, London, WC1V 7PB by
Inspector S Rennie.

Appendix I – Appeal Ref APP/N5660/W/18/3199793 Waterloo Road, Outside Waterloo Station &
Opposite Junction with Sandell Street, London

Appendix J - Appeal APPZ4310W183205104 Church Street (Outside No.1-5 Forever 21) by Inspector A
McGlone

Introduction

For the avoidance of background reputation so far as is practicable in this appeal statement, the appointed Reporter is respectfully asked to refer to the documents submitted as part of the application

for planning permission. The BT project to replace the existing estate of telephone kiosks in Edinburgh has been ongoing on a national basis for over 5 years.

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

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

A pre-application consultation email was sent to City of Edinburgh Council on 16th June 2021 which introduced the project and 11 potential BT Street Hub locations across the city. This consultation was then progressed to paid pre-app discussions with the Planning Department on 26th August 2021 and assigned the reference 21/04055/PREAPP.

On 22nd September 2021, a response was received and where practicable, all matters raised by the LPA were taken on board when finalising the planning and advert application submission. Given the operator's needs for improved public connectivity in the area, it is considered that this improved development proposal is wholly appropriate and will represent an overwhelmingly positive addition introduction to the locality bringing with it an array of social, economic, and environmental public benefits to the wider community.

An application for planning permission and consent to display advertisements was submitted to the Council on 24th March 2022 (Appendix A and C), where applications ran in parallel and were refused on 26th May 2022. The appellant's statement of the case in support of the applications is outlined below and will seek to prove that the proposal is supported by national planning policy and is not contrary to the Edinburgh Local Development Plan. The appeal will also outline the material considerations that further justify the proposal by highlighting the positive benefits that the proposal will provide.

The Positive Case for Street Hub

This statement will outline in greater detail how the proposal is in accordance with National and Local Plan policies, guidance and the public benefits of the Street Hub proposal. We have outlined in detail

the tangible benefits, but we would go further by highlighting how this proposal and the overall strategy will help deliver the goals of the Local Plan and Digital Strategy.

It is important to note from the outset that this appeal forms part of an overarching project to remove and replace some of the existing BT kiosks in the City of Edinburgh that will improve the public realm by upgrading them with the modern Street Hub.

Whilst it is acknowledged that the proposed Street Hub may have some minor negative impacts, it is the appellant's considered opinion from an objective perspective, that these impacts are outweighed by the significant benefits provided by the proposed unit. This appeal statement will provide a comparative assessment of the positive benefits and negative impacts associated with the development to reinforce our view that this proposal should be supported and the appeal should be allowed.

Scottish Planning Policy June 2014

Supporting Digital Connectivity

NPF Context

292. NPF3 highlights the importance of our digital infrastructure, across towns and cities, and in particular our more remote rural and island areas. Our economy and social networks depend heavily on high-quality digital infrastructure. To facilitate investment across Scotland, planning has an important role to play in strengthening digital communications capacity and coverage across Scotland.

Policy Principles

293. The planning system should support:

- *development which helps deliver the Scottish Government's commitment to world-class digital connectivity - As outlined in the application, the proposed Street Hub is a design of the highest technical specification that provides an unparalleled service in terms of free-to-use communications options.*
- *the need for networks to evolve and respond to technology improvements and new services - Whilst many existing BT phone kiosks are required under the terms of the Universal Service Obligation (USO) agreement between BT and Ofcom to provide and maintain publicly accessible call boxes on the street, they no longer meet the expectations of modern society.*
- *infrastructure provision which is sited and designed to keep environmental impacts to a minimum - It should be acknowledged that the proposed location is an existing telecommunications site and the proposal involves the removal of 3no existing BT kiosks that currently occupy a considerably larger footprint with a greater visual impact on the surrounding adjacent heritage assets.*

Sustainability

Policy Principles

This SPP introduces a presumption in favour of development that contributes to sustainable development.

28. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

29. This means that policies and decisions should be guided by the following principles:

- giving due weight to net economic benefit;

The economic benefits provided by improved telecommunications equipment are something that is never going to be immediately understood, although the impact of the industry over the last 3 decades is immeasurable. When telecommunications services are provided or improved, it can encourage more people to visit which creates demand for local services and the economy will therefore grow. For instance, free WiFi, consciously or not, is something that improves the quality of experience in a town centre but only if it is reliable and fast. If the WiFi experience is positive, people will return and reuse the service which is something that Street Hub contributes to. The use of Street Hub units in other parts of the UK and other major cities such as London and New York has been shown to greatly improve the visitor experience. Please refer to Appendix E or the link below.

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

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

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

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

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

- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;

As part of the Edinburgh Economic Strategy (November 2021), it outlines *'actions for a stronger Edinburgh economy. The City of Edinburgh Council will deliver the Digital and Smart Cities Implementation Plan to deliver our vision for a smart city where the application of data and technology increases efficiency, minimises costs and enhances convenience'*. The proposed Street Hub will directly contribute to this policy in a way that the existing kiosks do not with free Wi-Fi, Wayfinding services and device charging for convenience.

- supporting good design and the six qualities of successful places;

Distinctive

41. This is development that complements local features, for example, landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity. Whilst we would acknowledge that the proposal represents a minor change to the

local area, it is located in a busy urban setting where the Street Hub would not be considered to be out of scale with the surrounding buildings. It could also be argued that the single Street Hub proposed would result in an overall improvement to the character and appearance of the local area following the removal of 3No existing BT phone kiosks, thereby resulting in a significant reduction in street clutter.

Safe and Pleasant

42. *This is development that is attractive to use because it provides a sense of security through encouraging activity. A pleasant, positive sense of place can be achieved by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.* One of the unfortunate consequences of the existing BT kiosk estate is that they can become magnets for antisocial behaviour. The proposed Street Hub seeks to prevent this by removing existing enclosed kiosks and implementing the Anti-Social Behaviour Management Plan to prevent the new development from repeating the mistakes of the past. The proposed Street Hub also has easily accessible features to contact the emergency services and also free Wi-Fi and charging facilities that ensure that users will always be able to use their devices.

Welcoming

43. *This is development that helps people to find their way around.* One of the innovative features of the Street Hub's wayfinding facility is that it will highlight points of interest that people, who are unfamiliar with the area, such as tourists may be aware of. This includes local shops, services and attractions that are off the beaten track that people might not otherwise experience.

Adaptable

44. *It takes into account how people use places differently, for example depending on age, gender and degree of personal mobility and providing versatile green space.* We would highlight that the core principle of the Street Hub design is to ensure that the unit is inclusive and accessible to all, something that the existing kiosks that have been designated for replacement are not.

Resource Efficient

45. *This is development that re-uses or shares existing resources, maximises the efficiency of the use of resources through natural or technological means and prevents future resource depletion, for example by mitigating and adapting to climate change.* As outlined in the Product Statement, the Street Hub unit operates with the use of 100% renewable energy.

Easy to Move Around and Beyond

46. *This is development that considers place and the needs of people before the movement of motor vehicles. It could include using higher densities and a mix of uses that enhance accessibility by reducing reliance on private cars and prioritising sustainable and active travel choices, such as walking, cycling and public transport. It would include paths and routes which connect places directly and which are well-connected with the wider environment beyond the site boundary. This may include providing facilities that link different means of travel.* The Street Hub offers improved services that encourage those who wish to use public transport, or cycle and walk as an alternative means of travel throughout the local area. When more information is made available through Wayfinding, for instance, people who would otherwise be hesitant will be encouraged to explore further into the local area, especially when integrated with free reliable Wi-Fi to make bookings for entertainment such as restaurants and cinemas. Not only will this encourage sustainable travel, but it will also contribute to and support the local economy.

- *making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities; It is clear that the existing BT phone kiosks are not an efficient use of space in the immediate area.*
- *supporting delivery of infrastructure, for example transport, education, energy, digital and water;*
- *improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation; The Street Hub encourages social interaction by the nature of its services and physical activity through greater participation in walking and cycling, thereby improving their health and well-being.*

Promoting Sustainable Transport and Active Travel

NPF Context

269. Planning can play an important role in improving connectivity and promoting more sustainable patterns of transport and travel as part of the transition to a low-carbon economy.

Policy Principles

270. The planning system should support patterns of development which:

- *optimise the use of existing infrastructure;*
- *reduce the need to travel;*
- *provide safe and convenient opportunities for walking and cycling for both active travel and recreation, and facilitate travel by public transport;*
- *enable the integration of transport modes;*

National Planning Framework 3

The following sections of NPF3 are considered relevant and applicable to the proposed Street Hub development:

A successful, sustainable place

2.6 Our strategy aims to ensure that all parts of Scotland make the best use of their assets to build a sustainable future. Planning will help to create high-quality, diverse and sustainable places that promote well-being and attract investment.

2.7 Great places support vibrant, empowered communities, and attract and retain a skilled workforce. Emerging technologies for renewable energy and improved digital connectivity are changing our understanding of what constitutes a sustainable community. We must ensure that development facilitates adaptation to climate change, reduces resource consumption and lowers greenhouse gas emissions.

A Connected Place

5.8 Connectivity is not just about enabling physical movement, but also virtual links. High-quality mobile and fixed broadband connections have become essential to support communities and business development in both rural and urban areas. At present, there remains a significant gap between our most and least connected areas, with digital access being considerably better in more accessible urban areas. Many parts of rural Scotland have little or no connection and require public investment to rebalance the distribution of infrastructure.

5.15 To further reduce the need to travel and ensure continuing economic competitiveness, we will see a step change in digital connectivity in the coming years, supporting our broader aspirations for growth across the country. This will require significant investment in digital infrastructure to ensure coverage extends to our most remote, but asset-rich, rural and island communities. As well as providing new infrastructure to connect existing areas, future developments will build in digital connectivity as a matter of course.

5.16 Strengthened digital infrastructure will support our aspirations for more sustainable cities which attract new business. We can expect cities to become significantly 'smarter' in the next few years, using population density and shared infrastructure to further increase access to high-performing digital services.

Digital Scotland - A Changing Nation: How Scotland will Thrive in a Digital World

The most recent policy document on the priority placed on the importance of digital services was published in April 2021. The chapter 'No One Left Behind' states;

It was observed that: "the internet is not a luxury, it is a necessity As we have responded as a nation to the pandemic, this has become more apparent than ever. The internet has provided access to essential services and up-to-date and accurate information, and helped us to maintain the social contacts that are so important to our wellbeing. In doing so however, it has also exacerbated the isolation of those who do not enjoy access to technology and focussed attention on the risk that, unless we tackle digital exclusion, we could increase, rather than reduce, inequalities in our society."

In terms of Sustainable Development and where Scotland wants to be, the policy states: '*Future capital investment decisions will be driven by this understanding of the role that data and digital play in ensuring the economic and societal resilience of all our communities and our ability to trade with the world. They will also support our transition to a net zero society by enabling us to replace unnecessary journeys and make more efficient, environmentally friendly use of the more traditional infrastructure of transport and buildings.*'

In conclusion and in terms of tackling digital exclusion, the policy states: '*Progress has been made to tackle digital exclusion in Scotland, but we want to go further and achieve world-leading levels of digital inclusion. This depends, not only on the quality of Scotland's digital infrastructure, but on the ability of people to be able to afford data allowances and devices, and to acquire the skills and confidence to take advantage of the benefits and opportunities of being digitally connected.*'

Scotland's National Strategy for Economic Transformation.

The importance of digital infrastructure is highlighted in paragraph 1.7 - Bold Programmes of Action, which states '*We will deliver a step change in our productivity performance and address regional inequalities in economic activity as well as boosting traditional and digital infrastructure across every sector, and every region, of the economy.*'

The policy document continues by outlining in section 4 - Productive Businesses and Regions that: '*All the policy programmes in this strategy are interconnected, and while the other programmes will also drive productivity improvements, through for example reducing structural inequalities, this programme focuses on the opportunities from digital infrastructure, leadership, pioneering new approaches and addressing current geographical disparities to deliver prosperity for all Scotland's people and places.*'

Section 4.4 - Our Programme of Action - Project 8: Improve Connectivity Infrastructure and Digital Adoption Across the Economy elaborates that *'We will provide an efficient and resilient digital infrastructure. This includes continued investment in improved broadband, fibre and mobile coverage for residential and business premises.'*

Scottish Government National Transport Strategy Delivery Plan (2022-2023)

Based on the policy priorities set out in the Transport strategy, this appeal will outline how the proposed Street Hub will contribute to the goals of tackling climate change, delivering inclusive economic growth and improving health and wellbeing.

Tackles Climate Action

It is the position of this appeal that the proposed Street Hub will encourage more people to travel more sustainably by helping to provide the public with greater access to travel options in a coordinated manner via its modern Wayfinding and free Wi-Fi services. With greater connectivity provided to travel options, people will be encouraged to walk, cycle and use public transport more.

The strategy states that:

'Scotland must transition to a net-zero emissions economy for the benefit of our environment, our people, our communities and our future prosperity. People and businesses will be supported to make alternative travel choices that help strengthen local economies and allow everyone to share in the benefits of taking climate action while ensuring that those least able to pay are not unfairly burdened and that existing inequalities are tackled, not exacerbated.'

Our actions will:

- *Reduce the need to travel unsustainably*
- *Create better connectivity with sustainable, smart, cleaner transport options.'*

The strategy continues by outlining the intention of: *'Investing in Innovation - We are supporting advances in technology and new innovations through investment and research which will help increase the uptake and availability of low carbon and more efficient technologies and approaches. We will complete the procurement for digital travel data services to ensure continued and improved journey planning information in 2022. High-quality journey information services are essential to enable people to confidently use the public transport network and encourage modal shift to more sustainable travel.'*

Helps Deliver Inclusive Economic Growth

The transport strategy states *'The transport system plays a crucial role in the successful performance of Scotland's economy and ensuring regional cohesion. It enables people to get to work and ensures firms are able to get their goods and services to markets in Scotland and beyond. Our actions will:*

- *Provide for an integrated transport system that contributes to sustainable economic growth:*
- *Improve accessibility for residents, visitors and business.*

Improves our Health and Wellbeing

In order to be empowered to make healthy choices and enjoy the places we live, it is important to feel and be safe and secure – whether you are walking, wheeling, cycling or using public transport. Our transport system and our built environment needs to offer trust and confidence for users to reach their destinations without fear or threat. Our actions will:

- *Improve our health and wellbeing*
- *Give priority given to walking and wheeling, then cycling*
- *Provide a cohesive transport system that enhances communities as places – supporting health/wellbeing*
- *Create better connectivity with sustainable, smart, cleaner transport options.*

Committing to 'Generation Active Travel' - By removing the barriers faced as a result of low income we can ensure children and young people have the same opportunities to succeed, regardless of their backgrounds – improving their outcomes now and in the future. By improving access to sustainable travel for children and young people we can remove cost barriers and help to develop healthy travel habits in the long term.

As we have outlined above, the Street Hub project will make a positive contribution to the success and achievement of this National Transport Strategy Delivery Plan given that all of its services are accessible and free to use. What will start as initial curiosity will transform into a coordinated and essential feature of the modern public realm, in the same way telephone kiosks did over 100 years ago.

“1. The proposal does not comply with LDP policy Des 1 Design - Quality and Context as it is likely to have a high impact in visual terms to the detriment of the area.”

Edinburgh City Council's LDP Policy Des 1 Design states that *‘Planning permission will be granted for development where it is demonstrated that the proposal will create or contribute towards a sense of place. Design should be based on an overall design concept that draws upon positive characteristics of the surrounding area. Planning permission will not be granted for poor quality or inappropriate design or for proposals that would be damaging to the character or appearance of the area around it, particularly where this has a special importance.’*

Street Hub is a modern form of development, and in many ways its innovative design attributes reflect the technological advancements within the field of electronic communications over the last decade. To accommodate the equipment necessary to provide the immediate and future benefits to the area as previously outlined including the advertising feature, the unit has to be the height and design that is proposed.

The Planning Officer's Report of Handling for this application states that the Design Guide *‘seeks a high standard of coordinated place management and street design interventions which will enhance the special character of these streets.’* Whilst it is accepted that the proposal is within the general setting of important heritage assets, we would highlight that the proposal involves the removal of the 3no existing kiosks at the proposed location. We would emphasise that the kiosks are accepted features of the street scene, however they clearly no longer contribute to the quality of the public realm in a positive manner. Aside from the height difference, the existing kiosks represent a greater amount of street furniture and their removal will make a positive contribution to the appearance of the heritage assets and the Conservation Area.

The replacement of the existing kiosks which are smaller in height but take up a significantly greater amount of footpath space (2.38 square meters) compared to the Street Hub (0.43 square meters). We would also highlight the difference in combined density, as the existing kiosks are considerably larger (5.21 cubic meters) compared to the Street Hub (1.29 cubic meters). For reference, the measurements of the existing kiosk can be found at the following link (<https://www.britishtelephones.com/kxkiosk.htm>). This clearly illustrates that there is a significant reduction in physical structure and de-cluttering of the area.

The location of the proposal is in a commercial city centre area and given the scale and character of the area, the impact is not considered to be significant enough to warrant the refusal of the application. For instance, in the overarching context of the street scene illustrated in Image 3 below, the proposed Street Hub would not appear as a dominant or incongruous feature due to the scale of surrounding buildings; the busy nature of the setting and the existence of commercial properties with their associated signage and bright window displays.



Image 3 – The Streetscene surrounding the proposed BT Street Hub site

We would wish to refer to Appeal Ref APP/K5030/Z/18/3211426 (Appendix H), for a previous BT Inlink proposal that was allowed in the City of London in a similar location and close to high-value heritage assets. In the decision statement, the Inspector stated *‘The Inlink is a slender and modest sized structure, and the scale of the advertisements would not be imposing or overly prominent. It will replace a telephone box and therefore not add significantly to street clutter. Furthermore, given the commercial and busy nature of High Holborn, the Inlink would not be an incongruous addition to the street scene.’*

In summary, policy Des 1 Design states that *‘Planning permission will be granted for development where it is demonstrated that the proposal will create or contribute towards a sense of place’* and we would justify the proposal by the de-cluttering of the street scene and thereby positively contributing to the characteristics of the area.

“2. The proposal does not comply with LDP policy Des 5 Development Design - Amenity as it is likely to adversely impact on the amenity of neighbouring properties.”

In terms of the impact on amenity, we would refer to the Positive Case for the Street Hub above which outlines how the proposal supports the good design and the six qualities of successful places in the SPP, which addresses how the proposal will improve amenity.

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

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

An evitable question that is posed in the consideration of Street Hub proposals is why would the services provided be required given that most people own smartphones? The answer is simply that 'most people' does not mean that all people do. There will always be people who do not own smartphones and this means that social exclusion can be exacerbated. Furthermore, people with mobile devices may not have cellular coverage, may not have enough data to access their intended service and very often people could be faced with having a low or flat battery, particularly visitors and tourists. The proposed Street Hub will provide a solution to all of these issues, thereby protecting those who are vulnerable or unfamiliar with the area. This in turn improves the amenity of the area and the city in general.

It is contended therefore that the proposal fundamentally seeks to improve the amenity of this section of Nicolson Street, in keeping with the bustling and vibrant character of its wider context. On this basis, we would argue that the proposed Street Hub is not detrimental to the character and amenity of the street scene and public realm.

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

The Council's Report of Handling for the planning application outlines the objection from Transport and states *'Transport has been consulted on this application and has objected to the scheme. The width of the proposed advertisement shall reduce the footway to below a 2-meter width to the detriment of pedestrian flow through this busy area. The proposal does not comply with transport policy Tra 9 of the Edinburgh Local Development Plan.'*

Whilst we note the Transport comments and acknowledge that the proposal will be slightly wider than the existing kiosk, we should reiterate that the proposal involves the removal of 3no existing kiosks will be a significant reduction in street clutter and will demonstrably improve pedestrian movement around the site. On that basis, the proposal will not create an unacceptable obstruction or impact amenity that would be contrary to policy Tra 9 Cycle and Footpath Network.

It is therefore our opinion that the proposed Street Hub has been located in an appropriate location that does not affect the visual amenity of the area or reduce the visual openness of the area. The appeal site is found on a well-lit, footpath within the setting of modern commercial premises that have brightly lit shop frontages. It is therefore considered that the illuminated screens would have a neutral impact on the character, appearance and setting of the townscape but most importantly on highway safety.

“3. The proposal is contrary to the Local Development Plan Policy Env 6 in respect of Conservation Areas - Development, as it would have a detrimental impact on the character and appearance of the conservation area.”

It is the appellant's considered opinion that the policy tests used to determine the planning application have relied too heavily on the consideration that the proposed Street Hub would detrimentally impact the setting of the Conservation Area and that of nearby Listed Buildings.

With regard to the impact on the heritage assets close to the site, the status and importance of the South Side Conservation Area are unquestionable, but the proposed Street Hub location was chosen specifically so that it replaces 3no existing kiosks and uses the trees in Nicolson Square as a backdrop to minimise any visual intrusion to the wider area.

Whilst there will always be some degree of harm from any form of development, the positive impact that the removal of 3no existing kiosks in a poor state repair and the benefits that the proposal will bring to the area will outweigh any minor detrimental consequence of the proposal. The proposed site's immediate vicinity is dominated by the frontage of Nicolson Square and 30 Nicolson Street on the opposite side of the road with its modern styled appearance with a glass, brightly lit commercial frontage on the ground floor. As such, the site blends in well with the bright and open nature of the ground floor premises in a harmonious way that is in no way obtrusive or detrimental to the character. The positioning of the Street Hub unit in the proposed location will clearly not result in any unacceptable harm to the character and appearance of the Conservation Area as purported above.

In terms of the characteristics of the surrounding area, we would also wish to highlight that there are existing illuminated advertising units in the area that are incorporated into the bus shelters on Nicolson Street, which represents a clear precedent for this type of feature within the Conservation Area and close to other heritage assets. It is noted in the Council's Report of Handling that the Council supports advertisements incorporated into bus shelters and therefore they accept that they are not visually incongruous or detrimental to the character or setting of the Conservation Area or any nearby Listed Buildings that would merit refusal of the application.

We would refer to Appeal Ref APP/Z4310/W/18/3205104 and APP/Z4310/W/18/3205102 (Appendix J). The appeal for a BT InLink was allowed at a very similar location to the location of this appeal site and was described by the Inspector as follows. *‘The appeal site is part of the CSCA (Church Street Conservation Area) which covers part of Church Street which is pedestrianised and in the heart of the city centre. The site lies between two existing planters which form informal seating areas and contain street trees. Church Street is mainly occupied by three and four-storey high retail premises’* but it should be acknowledged that the appeal location is also within the buffer zone of the Liverpool World Heritage Site. The Inspector also recognises that *‘the proposals would not be over dominant or incongruous in the site's context.’*

With regard to the specific perceived impact of the advertisement, the appeal decision states;

‘The advertisements would be within an area where adverts form part of the area's commercial character and appearance. These draw the attention of people using, and experiencing the nearby area, especially to the ground floor commercial frontages. People generally experience long-range views of the upper floors of the listed buildings, other than when immediately next to or opposite them. The size, siting, design of the proposed InLink together with the size and means of display of the advertisements would not prevent people from experiencing these views.’

We would therefore reiterate that the benefits of the proposal outlined above outweigh any potential impact and therefore complies with Env 6. The importance of the heritage assets is noted, but care has been taken to replace the existing kiosks in the most sensitive manner possible in a city centre environment such as Nicolson Street and we would argue that this has been achieved.

We would also wish to highlight that the design of the proposal with an advertising feature, similar to well-established street furniture such as advertisements built into bus shelters, provides WiFi capability but also crucially small cell coverage and capacity for 5G services. The rollout of the 5G network is continuing at apace and the constant issue of providing effective coverage to areas such as the above is a constant source of frustration for all parties concerned. The antennas are camouflaged within the unit contributing to the extension of the 5G network, which will undoubtedly become a contentious issue in the near future for areas of heritage importance such as Edinburgh.

The under-appreciated benefit of the Street Hub, therefore, is that it offers the area small cell 5G coverage with inbuilt equipment, in a manner that does not impact the integrity or visual amenity of the heritage assets in the same way as traditional installations would do in the surrounding area.

"4. The proposals are contrary to the non-statutory guidelines on Adverts and Sponsorship as - digital adverts are not supported on street furniture other than on bus shelters in appropriate locations."

The Council's Report of Handling states that *'The advertisements both individually and cumulatively within the commercial streets of the South Side will result in a material change in character.'*

This appeal has outlined above that there is a clear precedent for this type of feature within the Conservation Area, in the form of advertisements on bus shelters and that the 3no existing kiosks at the proposed location designated for replacement also have advertisements. Whilst we accept that the non-statutory guidelines do not support digital adverts on all street furniture, the presence of existing advertisements in the surrounding street scene should be treated as a material consideration. Whilst they are not digital, the proposal represents the development of advertising design and represents how the majority of illuminated advertising will be in the near future given their efficiency in terms of energy consumption and flexibility. We would therefore contend that aside from the digital element, the proposed advertisement does not represent a material change in character.

The Council's Report of Handling continues: *'The proposal seeks to install digital advertising as a principal element of a freestanding structure that also incorporates a telecommunications interface. No exceptional circumstances have been identified in this location and the applicant has not provided specific evidence that would justify the erection of the freestanding structure in this location.'*

We would contend that the proposal is not a solely freestanding advertisement, but is a modern multi-functional communications kiosk that incorporates advertising in a similar manner to the bus shelters in the immediate area to fund the free-to-use services provided. The de-cluttering of the street scene, the installation of a sustainable modern facility and the services it will provide, whilst not exceptional, is the purpose of the project and is therefore acceptable.

Conclusion

In conclusion, we will summarise the Determining Issues in the Council's Report of Handling assessment.

Do the proposals comply with the development plan?

Do the proposals harm the character or appearance of the conservation area?

The proposed BT Street Hub will contribute to the improvement of the local area by directly replacing 3no existing telephone kiosks with a more aesthetically pleasing structure that will provide a multitude of positive features that will benefit the community and businesses locally and throughout Edinburgh.

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

The proposal, whilst within the setting of the Conservation Area, by its careful positioning in the street scene, has a greater connection to the nearby commercial buildings which are of a more modern appearance and therefore more in keeping with this type of development.

Any other material considerations that must be addressed?

As we have highlighted, the proposal directly supports the policies and guidance set out in the Scottish Planning Policy and the National Planning Framework 3. It also directly contributes to the policies outlined in the Scottish Digital, Economic and Transport strategies.

The proposal also by virtue contributes to the goals of Sustainable Development by promoting a proposal that offers economic, environmental and social benefits whilst directly contributing to the six qualities of successful places.

Therefore, it is considered that there will be less than substantial harm to the character of the area and the significance of the nearby designated heritage assets, in which any such minor harm is outweighed by the public benefits of the proposal. Most notably the array of features it offers, as well as securing the appeal site's optimum viable use by replacing existing public call boxes. In this respect, it is concluded that full planning permission should be allowed.