

Cabinet Member Decision Note

Proposed BT Phone box removals – Lydiard and Freshbrook

To: Cabinet Member for Strategic Planning

Date: 16th January 2020

Author:	Head of Planning, Regulatory Services and Heritage
Ward:	Lydiard and Freshbrook
Parishes Affected:	West Swindon

1. Purpose and Reasons

- 1.1 BT has notified the Council of its intention to remove 24 public call boxes in the Borough. As the relevant 'organisation' as set out by Ofcom regulations, Swindon Borough Council has a duty to consult with the local community and to make its own recommendations as to whether each call box should be retained, and therefore exercise its right of 'local veto'.
- 1.2 Of the 24 public call boxes proposed for removal 2 are located in the ward of Lydiard and Freshbrook on Sudley Way and the Village Centre Freshbrook. Both are 'modern' style call boxes.
- 1.3 This report sets out the response to the proposed BT payphone callboxes removal. This is based on the comments made during the initial phase of consultation undertaken by the Planning Department and analysis of the benefits of retaining each box in respect of socio-economic profile of the local community in which it is located.

2. Recommended Action to be Authorised by a Cabinet Member Under Delegated Powers

Recommended that:

- 2.1 Approve the recommendation for removal, adoption or retention of each of the call-boxes in this ward, and
- 2.2 Authorise the Head of Planning, Regulatory Services and Heritage to undertake consultation on this decision in accordance with Ofcom regulations.

3. Detail

BTs proposal:

- 3.1 BT's rationale for review of the call-boxes is that:
 - 3.1.1 overall usage of payphones has declined by 90% in the last decade making many of them 'uneconomic' and

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Cabinet Member Decision Note

Proposed BT Phone box removals – Lydiard and Freshbrook

To: Cabinet Member for Strategic Planning

Date: 16th January 2020

3.1.2 that widespread mobile coverage has reduced the need to provide payphones for use in emergency situations.

3.2 However, as a Universal Service Provider, BT has a duty to provide 'reasonable geographic access to public call boxes'. The telecoms regulator, Ofcom, considers that 'adequate coverage' is best determined at a local level and that 'public call boxes provide a service that is valued and needed by many people without a phone or those away from home who cannot, for whatever reason, use their mobile. Many disadvantaged and vulnerable consumers still rely on callboxes.' BT cannot therefore remove a callbox which is the one and only callbox within a 400metre radius without first instigating a 90 day consultation on this removal.

3.3 BT requires the Council to make a decision for each callbox as to whether:

3.3.1 To agree to the removal

3.3.2 To object to the removal

3.3.3 To adopt the box for £1. Many of the traditional red heritage boxes have been adopted by communities for use as libraries, art galleries, shops to sell local produce such as plants. BT will also permit the adoption of the modern callboxes (KX100) to house defibrillators

3.4 The Right to Veto, Ofcom Regulations state that if the relevant public body (the local authority) writes to BT within the allocated timescales objecting to the removal of a particular callbox and backing up this objection with a reasonable argument, then BT cannot remove the box. This is known as the 'local veto'.

3.5 The consultation procedures have been set out by Ofcom as follows:

3.5.1 Initial consultation of 42 days. This was instigated on 8 October 2019 by BT posting notices in the 24 callboxes and notifying the Council of the proposal. The Council responded by posting details on the SBC website and writing to affected parish councils, local resident associations and community groups.

3.5.2 Swindon Borough Council as the 'Local Organisation' to consider and decide on the recommendations for each callbox. This decision constitutes the 'First Notification' and must be sent to the Secretary of State and publicised throughout the Borough.

3.5.3 A second consultation period of 30 days on the decisions in the First Notification

Cabinet Member Decision Note

Proposed BT Phone box removals – Lydiard and Freshbrook

To: Cabinet Member for Strategic Planning

Date: 16th January 2020

3.5.4 Swindon Borough Council to make the final recommendations (the Final Notification) based on the responses from the second consultation.

3.6 The below table sets out the recommendation for each of the call boxes within the ward. These recommendations have been informed by consideration of the following factors:

3.6.1 The responses received from the residents and community groups.

3.6.2 Our knowledge of the housing and demographic makeup of the surrounding area, assuming that callboxes are more needed in areas with higher proportions of social housing or in the more rural parts of the Borough.

3.6.3 Whether a callbox is likely to be needed in an emergency situation because it is located near a public facility eg village hall or defibrillator or local centre or in a rural area with poor mobile services.

Telephone number	Address	Number of calls in last 12 months	Comments received	Recommendation	Reason for objection
1793874922	Sudeley Way	0	None	Agree to removal	
1793886128	Village Centre Freshbrook	17	None	Object	Local centre & sheltered housing nearby

4. Alternative Options

4.1 The Cabinet Member may choose to make alternative recommendations for each of the call boxes under consideration of removal; however should this result in recommendation of the retention of a call box this should be accompanied with a reasoned argument as to why.

5. Consultation

5.1 The following Opposition and Minority Group Spokespersons / Ward Members have been consulted on the recommendations of the report and their responses are also summarised below:

Further information on the subject of this report can be obtained from Alice Bates, 01793 466513, abates@swindon.gov.uk.

Cabinet Member Decision Note

Proposed BT Phone box removals – Lydiard and Freshbrook

To: Cabinet Member for Strategic Planning

Date: 16th January 2020

Councillor Jim Robbins, Opposition Group spokesperson- No Comment received
Councillor Stan Pajak, Minority Group spokesperson – No Comment received
Councillor Matthew Courtliff, ward member – No Comment received
Councillor Timothy Swinyard, ward member – No Comment received
Councillor Caryl Sydney-Smith, ward member - No Comment received

6. **Implications, Diversity Impact Assessment and Risk Management**

Financial and Procurement Implications

- 6.1 There are no direct financial or procurement implications arising from this Report.
Legal and Human Rights Implications

- 6.2 British Telecommunications plc is named as a "Universal Service Provider" following a modification (hereinafter referred to as "the Modification") of a Direction imposed upon them and another Provider under Condition 3 in Parts 2 and 3 of a Notification published by the Director General of Telecommunications on 22 July 2003 pursuant to the Electronic Communications (Universal Service) Regulations 2003.

- 6.3 Under the Modification, a Universal Service Provider shall not remove or re-site any of its call boxes unless the requirements set out in paragraphs 2.2 to 2.4 of the Modification have been satisfied. That is to say, in order to remove, the Provider must have both displayed and served notices (one of which needs to be served upon SBC) proposing removal and not received any objections within 90 days thereof.

- 6.4 The industry regulator (Ofcom – hereinafter referred to as the "Regulator") have issued recommendations on how local authorities, as the public body receiving the notice, should respond. This largely involves councils bringing the contents of the notices to the attention of such persons as it considers appropriate and asking for comments on the proposal to be made to be made to it within a stipulated period. Such persons might include other local public bodies, for example the parish council. The detail of what this consultation should look like are set out in paragraph 3 of the Report.

- 6.5 In deciding whether to consent or object to the proposal, the Regulator recommends that SBC must be satisfied that its decision is:

Cabinet Member Decision Note

Proposed BT Phone box removals – Lydiard and Freshbrook

To: Cabinet Member for Strategic Planning

Date: 16th January 2020

- 6.5.1 Objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- 6.5.2 Non-discriminatory;
- 6.5.3 Proportionate; and
- 6.5.4 Transparent.
- 6.6 The Council is required to satisfy itself that it has acted in accordance with the 6 Community Requirements of Section 4 of the Communications Act 2003 as follows:
 - 6.6.1 To promote competition in the provision of electronic communications networks and services, associated services and facilities and the supply of directories
 - 6.6.2 To contribute to the development of the European internal market
 - 6.6.3 To promote the interest of all persons who are citizens of the European Union
 - 6.6.4 Not to favour one form of, or means of, providing electronic communications networks or services ie to be technology neutral
 - 6.6.5 To encourage network access and service interoperability for the purpose of securing competition in the electronic communication networks and services markets and the maximum benefit for the customer of communications providers
 - 6.6.6 To encourage compliance with standards necessary for facilitating service interoperability and securing freedom of choice for the customers of communications providers.
- 6.7 To assist councils consider whether they should consent or object to the proposal, Ofcom has recommended the following guidance factors:
 - 6.7.1 Housing type in the area - the more owner-occupied housing in the area the more likely it is that people living in that area would have access to mobile and fixed telephones. If there is predominantly private rented or council housing in the area, this may suggest people on a lower income without access to mobile and fixed telephones and support the view that a phone box should be retained.

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Cabinet Member Decision Note

Proposed BT Phone box removals – Lydiard and Freshbrook

To: Cabinet Member for Strategic Planning

Date: 16th January 2020

6.7.2 Number of households in the area - there may be concerns about alternative access to telephone services for low population densities. The number of households within 400 metres of any phone box could be seen as the catchment area concerned.

6.7.3 Call box revenue - BT may be willing to provide information about the revenue generated. This should help measure usage and could be an indicator of its value to the community. Low annual revenue could be grounds for its removal.

6.7.4 Emergency calls - many people place great value on having the option to use a call box in an 'emergency'. SBC should consider whether a particular phone box is more likely to be used for emergency calls than another. For example if there are alternative means of making calls available locally and/or there is good coverage for mobile phones, this may suggest that there is a reduced need to retain the phone box on emergency grounds. However if, for example, the call box is near a known accident black-spot, it may suggest it should be retained.

6.7.5 Mobile phone coverage - While three-quarters of adults now personally use a mobile phone, people often cite poor, sporadic or the lack of mobile network coverage at a location as being an important factor for retaining a phone box. The main mobile networks, including 3, 02, Orange, T-Mobile and Vodafone allow you to check the network coverage in any given postcode area on their websites. While this might not be conclusive, it should help to assess network coverage within the same relevant postcode.

6.8 Your officers' opinion is that the recommendations in this Report are in accordance with the Act as set out above.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

6.9 Other relevant implications have been considered in respect of the recommendation relating to each call box.

Diversity Impact Assessment

6.10 A Diversity Impact Assessment has been completed. Adverse impacts were identified and have been mitigated in the following ways:

6.10.1 Age – older people and children have been identified as potentially more reliant on callboxes as they may be less likely to have alternative options such as mobile phones or private landlines. They have been targeted in

Cabinet Member Decision Note

Proposed BT Phone box removals – Lydiard and Freshbrook

To: Cabinet Member for Strategic Planning

Date: 16th January 2020

the consultation and where callboxes are located close to schools, local centres and housing for older people such as bungalows or sheltered housing, the recommendation is that the boxes should be retained.

6.10.2 Economic status – residents living in areas with a high proportion of social housing may be more reliant on callboxes as they may be less likely to afford alternative options. Where callboxes are located in such areas, we have recommended that the boxes should not be removed.

Risk Management

6.11 In making the recommendations in respect of each phone box an objective assessment has to be made of the merits of its retention. BT will continue to review its call boxes in the future as usage is likely to continue to fall.

7. Consultees

7.1 The Corporate Director of Finance and Assets (s151 officer) and Chief Legal Officer (Monitoring Officer) are consulted in respect of all reports.

8. Background Papers

8.1 None

9. Appendices

9.1 None

10. Declarations of Interest

10.1 Opposition and Minority Group Spokespersons / Ward Members

10.1.1 Opposition spokespersons / Ward Members are reminded to consider whether they have any known interests in any of the matters referred to in this Decision Note. If such an interest exists this should be declared to the Monitoring Officer (or Senior Committee Clerk), and they should take no part in the consideration of the Briefing Note and should refer the Briefing Note to their Group Leader.

10.2 Cabinet Member(s)

10.2.1 Cabinet Members are reminded to consider whether they have any known interests in any of the matters referred to in this Decision Note. If such an interest exists this should be declared to the Monitoring Officer (or Senior Committee Clerk), and they should take no part in the consideration of the

Cabinet Member Decision Note

Proposed BT Phone box removals – Lydiard and Freshbrook

To: Cabinet Member for Strategic Planning

Date: 16th January 2020

Decision Note and should refer the Decision Note to the Leader of the Council instead for consideration.

11. Sign-off

11.1 The Cabinet Member is requested to respond with 5 days of the date of this report: 23rd January 2020.

11.2 The Cabinet Member is requested to indicate one of the following responses to the Recommendations set out in Section 2 of this report:

Note and support the proposed action to be taken under delegated authority –
Yes / No

Note and request the proposed action be reconsidered – Yes / No
Reasons for Reconsideration:

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Request Report be Referred to Cabinet - Yes / No

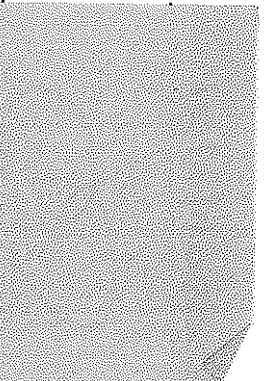
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NB To protect against identity theft, Cabinet Member's signatures will be redacted on public versions of the signed Briefing Note.

Date

Signed



..... Cabinet Member

11.3 Decisions of Cabinet Members will be published in the Members' Bulletin. The Decision must not be implemented until such time that a five-day "Call-in" period has expired. This date will be specified in the Members Bulletin. If a Decision is "called-in" it will be referred to the Scrutiny Committee for consideration. It must only be implemented if the Scrutiny Committee has raised no objection. If an objection is forthcoming the matter will be referred back to the Decision-Maker.