

Report on	Update on BT Consultation on the removal of a public payphone at the Bush.
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Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

1.0	Purpose of Report
1.1	Members will recall that the Planning Manager agreed to provide a paper on the handling of a BT Consultation on the removal of a public payphone at the Bush and options as to how the Committee may wish to consider the issue further.
2.0	Background
2.1	On 7 th September 2017 the Planning Department of Mid Ulster District Council received correspondence from British Telecom (BT) which advised that they are considering removing the existing public payphone located near the junction of Cavan Road and Bush Road, within the village of Bush.
2.2	The Planning Department has been performing a 'post box' role in the handling of the consultations from BT on this and other similar consultations. BT are following OFCOM guidance on the removal of payphones/boxes and their guidance names Council's in Northern Ireland as the 'post box' for collecting commentary. Upon receipt of the consultation from BT it is then forwarded to Democratic Services who then report it to the relevant Council meeting along with any representations received.
2.3	The OFCOM guidance on the removal of public call boxes states that if a local organisation writes to BT within 90 days to object, setting out their reasons, BT cannot removal the call box. This is known as a 'Local Veto'.
3.0	Main Report
3.1	In this particular case the payphone in question is a 'classic' style red phone box, of the 'K6' variety, which was originally designed by Sir Giles Gilbert Scott in 1935 to commemorate the silver jubilee of King George V and is widely considered to be a modern design icon. The once common sight of a red phone box within the towns and villages of Northern Ireland is now becoming rarer due to modern replacements and the increase in popularity of mobile phones. At present this particular phone box does not have any associated designations which would afford it any special protection

3.2	<p>The Committee may wish to know that to-date representations have been received on behalf of the community which highlight the following objection issues:</p> <ul style="list-style-type: none"> • The phone box is a feature in the village and rather than removing it, BT should make investment in the phone box to tidy it up. • This is a rural community with many elderly residents. This kiosk could prove a life saver in an emergency 999 incident. • Rather if the kiosk was painted and maintained perhaps more people would use it. • The traditional red kiosk is part of the history and culture of the village and the Bush Community Culture Group would like to see it retained for future generations.
3.3	<p>These representations have been provided to Democratic Services who will have the consultation and related representations listed on the Correspondence Report for the September Council meeting.</p>
3.4	<p>It is clear from the representations received to-date that the local community would like to see the phone box remain. It is considered that there are <u>two options</u> available to the council as a means of achieving this:</p> <ol style="list-style-type: none"> 1. Make use of the 'Local Veto' as contained within the OFCOM guidance whereby the council would submit their objection to BT setting out the reasons submitted by the local community. 2. Investigate the option of the 'Temporary Listing' of the phone box through the service of a Building Preservation Notice (BPN). The detail of this process is set out below.
3.5	<p>Building Preservation Notices (BPN)</p> <p>A BPN is a form of temporary listing which provides statutory protection to an unlisted building, for a period of 6 months, as if it were listed. The Planning Act gives Mid Ulster Council the discretionary power to serve a BPN on the owner and occupier of a non-listed building that they consider meets the following tests:</p> <ul style="list-style-type: none"> • It is of special architectural or historic merit; and • It is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest.
3.6	<p>Mid Ulster Council and the Department of Communities have responsibility under the Planning Act (NI) 2011, to protect and conserve the historic environment for the benefit of our present and future generations. The Department of Communities, Historic Environment Division retains the legal power to designate (list) a historic structure. It is important to highlight that his legal power to 'list' a building is not within the Council's remit and the service of a BPN is only a temporary measure. In moving forward with the service of a BPN the advice and input of DoC HED is critical since it is they who decide if the building should then be 'listed'.</p>
3.7	<p>A key consideration for the Members is the issue of '<u>Compensation</u>', as set out in Section 179 of the Planning Act (NI) 2011. Under this Planning Legislation Mid Ulster Council is liable for 'Compensation' with regard to BPN's in the following two situations</p> <ul style="list-style-type: none"> • Revoked planning permission – a BPN can be served on a heritage structure even if there is an existing planning permission for its demolition or alteration. Should the heritage structure be subsequently listed, Listed Building Consent (LBC) will be required. If LBC is not granted for works approved under a current planning application,

	<p>this may require the current planning application to be revoked. Applicants may then seek compensation for losses incurred.</p> <ul style="list-style-type: none"> • Heritage Structure subject to a BPN is not Listed – If after consideration, the heritage structure is not protected by the DoC, HED as an official listed structure, Section 186 of the Planning Act 2011 applies. The land owner may claim compensation for ‘<i>any loss or damage directly attributable to the effect of the notice</i>’, including ‘<i>a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the BPN being in force with respect to it.</i>’ <p>It is therefore important for the Council to have due regard to the potential for compensation claims when considering serving a BPN.</p>
4.0	Other Considerations
4.1	<p><u>Financial & Human Resources Implications</u></p> <p>Financial:</p> <p>Human:</p>
4.2	<u>Equality and Good Relations Implications</u>
4.3	<u>Risk Management Implications</u>
5.0	Recommendation(s)
5.1	<p>Members are requested to note the contents of this report and advise if they wish to use the ‘local veto’ option to keep the payphone at the Bush.</p> <p>Should members wish to consider the option of a Building Preservation Notice then they are requested to advise if they would like further investigation carried out by the planning department on the merits of temporary listing, including consultation with DoC, HED.</p>
6.0	Documents Attached & References