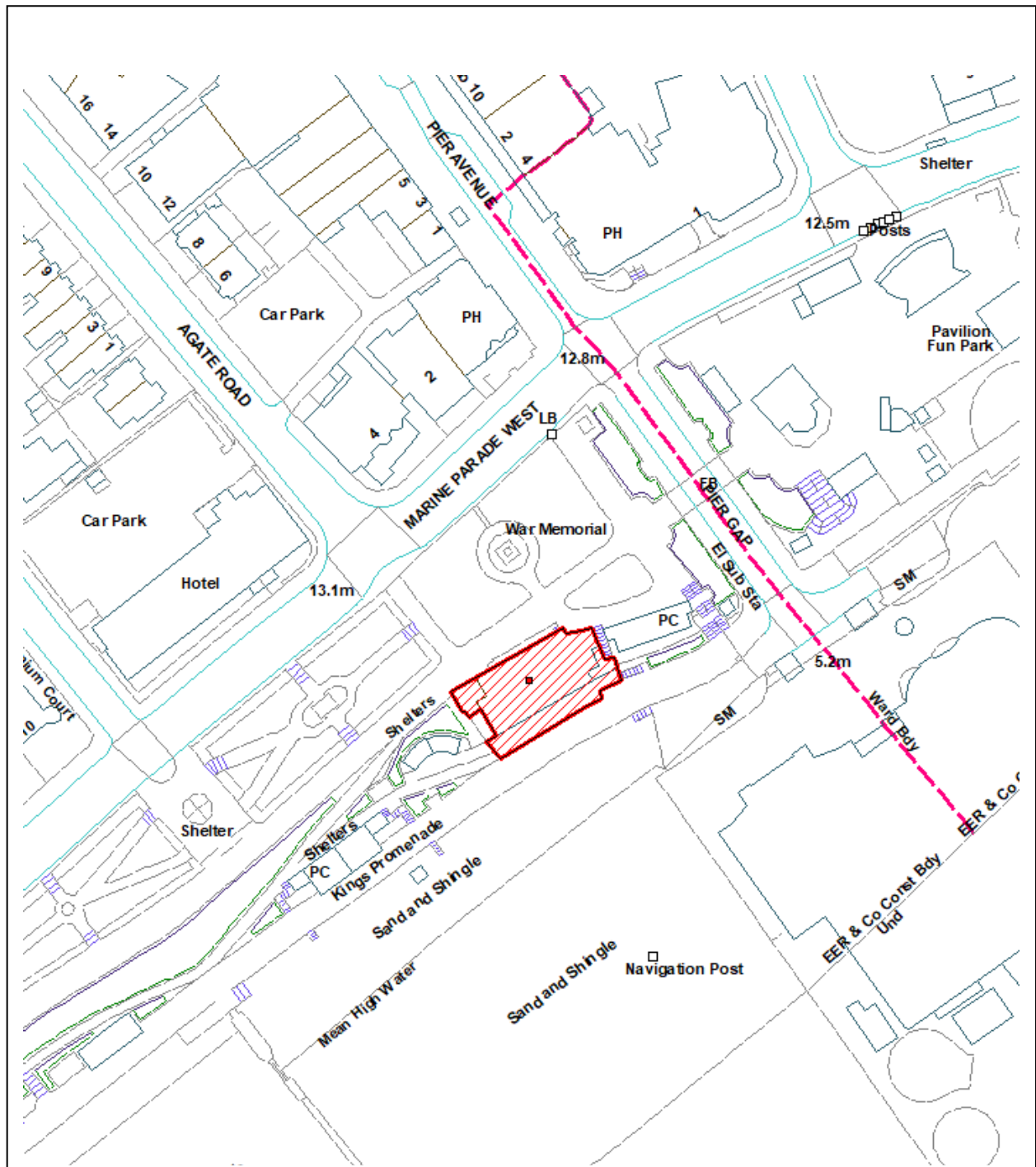


# PLANNING COMMITTEE

17<sup>TH</sup> JANUARY 2023

## REPORT OF THE DIRECTOR FOR PLANNING

### A.3 PLANNING APPLICATION – 22/01829/ADV – ATLANTA BUILDING KINGS PROMENADE CLACTON ON SEA CO15 1FS



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**Application:** 22/01829/ADV

**Town / Parish:** Clacton Non Parished

**Case Officer:** Charlotte Cooper

**Applicant:** Mr Alex Kalebic - Loungers UK Limited

**Address:** Atlanta Building Kings Promenade Clacton On Sea Essex CO15 1FS

**Development:** Consent to display 3no. illuminated fascia signs and 1no. illuminated menu board.

## 1. **Executive Summary**

1.1 This application is for consent to display 3 no. illuminated fascia signs and 1 no. illuminated menu board.

1.2 Fascia Sign No. 1 will display the name of the building 'Martello Lounge'. Fascia Signs No. 2 and No. 3 will display individual mental letters 'Café Bar'. All three signs will be to the front of the building and will be illuminated.

1.3 The illuminated menu board will be inside the shopfront adjacent to the main entrance to the café/bar.

1.4 Due to the location of the building, in close proximity to 'Clacton Pier' and 'The Pavilion', the design and appearance of the proposal is considered to be in keeping with the locality and will not result in a loss of amenities to neighbouring properties.

### **Recommendation:**

That the Planning Manager be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained.

## 2. **Planning Policy**

2.1 The following Local and National Planning Policies are relevant to this planning application.

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL3 Sustainable Design

### **Status of the Local Plan**

- 2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

### **3. Relevant Planning History**

|              |   |          |            |
|--------------|---|----------|------------|
| 22/00856/FUL | Proposed installation of extraction system. | Approved | 04.08.2022 |
|--------------|---|----------|------------|

|              |  |         |  |
|--------------|--|---------|--|
| 22/01843/FUL | Proposed new shop front and external seating area to be used in connection with a lounge cafe. | Current |  |
|--------------|--|---------|--|

### **4. Consultations**

|   |  |
|---|--|
| Essex County Council Heritage<br>21.12.2022 | <p>The application is for consent to display 3no. illuminated fascia signs and 1no. illuminated menu board.</p> <p>The proposal site is a 1950s building within the Clacton Seafront Conservation Area and adjoining Grade II Listed Clacton-on-Sea War Memorial and Clacton Seafront Park and Garden, a Grade II Listed registered park. The building is also in a prominent position within the Pier Gap, facing Clacton Pier and the seafront. The Pier is the central focus for this area, with the Pier Gap connecting the beach with the settlement behind. It is a prominent feature within the Conservation Area, clearly visible from the Clacton Seafront Park and Garden, and it makes a positive contribution to the understanding of the development of Clacton-on-Sea.</p> <p>The west of the Pier Gap, where Atlanta building is located, comprises a series of formal gardens connected by a walkway and unified by high quality street furniture, planting, and pavilions. This public realm is also a key contributor to the character of the Conservation Area and enhances our understanding of its historic development and the significance of the seafront.</p> <p>A predominant concern throughout the Conservation Area is the use of inappropriate signage. Signs are often dominant in views and therefore negatively impacting our ability to read the historic character of the town. There are therefore concerns about the use of light pink neon to the centre of each letter.</p> |
|---|--|

The proposed colour scheme also does not complement the minimalist architecture of the original building and it is not considered in keeping with the local character of Clacton Conservation Area, where the predominant colour for buildings along the seafront is white or off white.

In their current form the proposal do not preserve or enhance the character or appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraph 202 of the NPPF is relevant.

Furthermore, the proposed fail to make a positive contribution to local character and distinctiveness, as set out in Paragraph 197c of the NPPF.

I advise the proposal is revised and we are re-consulted.

ECC Highways  
Dept  
28.11.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material.

From a highway and transportation perspective the Highway Authority has no comments to make on this proposal; given the luminance levels do not exceed the recommended level of 600 cd/m for a medium district area (small town centre), as contained within the Technical Report No.9 - Brightness of Illuminated Advertisements Third Addition.

## **5. Representations**

5.1 None received.

## **6. Assessment**

### Site Context

- 6.1 The application site is 'Atlanta Building', a two storey building located along the southern edge of Kings Promenade, within Clacton-on-Sea. The site is located within the Town Centre Boundary and is identified as a priority area of regeneration.
- 6.2 The site is also located within the Clacton Seafront Conservation Area.
- 6.3 The character of the surrounding area is urbanised to the north, with significant levels of residential and commercial development. Clacton seafront is located immediately to the south with Clacton Pier towards the east.

### Proposal

- 6.4 This application seeks advert consent to display 3 No. illuminated fascia signs and 1 no. illuminated menu board. Being an advertisement consent application, the material considerations are visual amenity that includes appearance, heritage, and highway safety.

### Design and Appearance

- 6.5 Fascia sign No. 1, as shown on drawing no. LNG4605.06C, will display raised and individually cut metal lettering in light pink, with light pink neon to the centre of each letter and to run as one piece through the cursive front. This sign will display the name of the building 'Martello Lounge'.
- 6.6 Fascia Sign No. 2 and 3 will display individual letters with powder coated front faces and returns in off white. The letters will have concealed halo illumination in soft warm white. These signs will display the words 'Café' and 'Bar'.
- 6.7 The proposed illuminated menu board will be located inside the shopfront. An LED light strip will be fixed to the upper internal edge of the menu board. The board will have gold finish with laminated glass.
- 6.8 The proposal is publicly visible, however illuminated signs of this nature and prominent in the locality. The proposal is considered to blend with its location and has no significant harmful impact on the visual amenities of the area (heritage matters are considered separately below).

#### Impact on Clacton Seafront Conservation Area

- 6.9 Due to the proposals location within the Clacton Seafront Conservation Area, Essex County Councils Heritage Department, Place Services, have been consulted and have submitted the comments detailed earlier in the report. In summary the heritage team raise two points of concern.

- The use of light pink neon to the centre of each letter (but no expressed objection to the signage as a whole)
- The colour scheme of the building

In respect of the second point, the colour scheme of the building is not part of this application for consideration, and as this is not a Listed Building can be changed without permission. Therefore, the use of pink neon remains and the concern that the Local Planning Authority must consider is significantly less than that referenced by the heritage team.

- 6.10 Heritage finds that signs are often dominant in views and therefore negatively impacting our ability to read the historic character of the town and, while this is a sweeping statement, in this specific case find the colour pink and neon effect through illumination to be dominant failing to enhance or conserve the Conservation Area. The Conservation Area is a heritage asset and so if harm (even less than substantial harm is established) it must be considered carefully in accord with the NPPF and can only be acceptable if public benefit outweighs that harm. While accepting the aim of heritage to seek enhancement of the Conservation Area, the minimum bar for consideration is to conserve. The current requirement as heritage also state is to preserve or enhance, it does not have to be both.
- 6.11 In terms of *conserving* the Conservation Area, the proposal is considered to be of an in keeping appearance to the signs serving the adjacent site (Clacton Pavilion, namely the 'Pavilion Bowl') and the judgement on the Conservation Area can only be at the present time and present considerations. Furthermore, the signs are located to the front of the building and will not be visible from the aforementioned War memorial or Clacton Seafront Park, they will not have any significant impacts on the visual amenities or special character of these areas to warrant refusal. However, in this regard given illumination and experience of the area as a whole there may be slight harm in the context of the Conservation Area and other designated assets. Therefore the test for public benefit is considered to engage and it is considered that the proposal is part of the economic development of this site that does provide public benefit in terms of securing a viable economic growth for the area and well maintained appearance. It is further material to consider all other works to this site as a whole in this regard.

### Highway Safety/Parking

- 6.12 Essex County Council Highways have been consulted on the application and have raised no objection on highway safety grounds. Your officer have reviewed this position and agree that the proposal is considered to be acceptable in terms of highway safety.

### Impact on neighbouring / residential amenities

- 6.13 While not a consideration for advert consent, the proposed signage does not face onto any residential properties and has no significant harmful effects on neighbouring amenities.

## **7. Conclusion**

- 7.1 The signage is considered to be suitable to the site and surroundings conforming to local and national policies. The proposed development, this application is recommended for approval.

## **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives

### **8.2 Conditions and Reasons**

- 1 All advertisement consents are subject to five standard conditions specified in Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 which are as follows: -

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.

Additionally, all advertisement consents are for a fixed term of 5 years unless this period is varied on the formal decision notice.

- 2 The development hereby permitted shall be carried out in accordance with the following approved drawings / documents.

Drawing No. LNG4605.BP - Block Plan

Drawing No. LNG4605.06C - Proposed Signage Detail

Heritage Statement

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

### 8.3 Informatives

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### Highways Informative:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

## 9. Additional Considerations

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

#### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

### **10. Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.