

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	ER	16/03/23
Planning Manager / Team Leader authorisation:	AN	16/03/23
Planning Technician final checks and despatch:	ER	16/03/2023

Application: 23/00128/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr James Browne - British Telecom Plc

Address: Footpath outside McDonalds 24 - 26 Pier Avenue

Development: Proposed installation of proposed street hub and associated display of advertisement to both sides of unit.

1. Town / Parish Council

Clacton non parished

2. Consultation Responses

ECC Highways Dept
10.02.2023

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The Highway Authority will protect the principal use of the highway as a right of free and safe passage of all highway users.

As indicated on drawing; BT STREETHUB CLN-212, the unit is located too close to the edge of carriageway. The location of the unit is positioned on the inside of a bend adjacent to the carriageway and it will impact on the visibility of any pedestrian crossing in the vicinity of the unit and Pier Avenue is a busy pedestrian friendly location and the interference which this proposal would engender for both pedestrians and approaching vehicles who would be distracted by the advertisements, resulting in an unacceptable degree of hazard to all road users to the detriment of general highway safety.

The proposal is therefore contrary to policy DM1, and DM7 contained within the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: Any apparatus located within the highway should be positioned at the back of the footway.

2: A minimum footway width of 2 metres must be retained adjacent to the apparatus at all times and must not be in the vicinity of a formal pedestrian crossing facility.

3: Consider as any other application for: obstruction, visibility obstruction, luminance, and distraction issues (display units: flashing/intermittent images).

The Highway Authority may consider a revised application that

addresses the issues highlighted above.
Environmental Protection

3. Planning History

91/00542/FUL	Continued siting of tables and chairs on forecourt area (Renewal of permission TEN/683/89)	Approved	02.07.1991
06/01258/ADV	2 no. 'M' logo signs, 2 no. 'McDonalds' signs and 2 no. projecting signs.	Approved	26.10.2006
06/01261/FUL	Redecoration of shopfront including installation of timber slat detail to window heads	Approved	08.11.2006
13/01421/FUL	External seating to be placed on the pavement outside the existing restaurant - 8 tables and 32 chairs and associated barriers.	Approved	15.01.2014
15/01009/FUL	Refurbishment and reconfiguration of shop front to include the relocation of the entrance, new full height glazing with frames finished in Khaki Green Ral 6015, new stall riser and fully automated sliding entrance door to be fitted. Installation of new aluminium fascias panels and trespa cladding to the columns with the installation of 1 no internal LCD promotional screen, replacement and new signage.	Approved	06.08.2015
15/01010/ADV	Reconfiguration of shop front to include the relocation of the entrance and new signage.	Approved	06.08.2015
15/01450/FUL	Resubmission of planning approval 15/01009/FUL. Refurbishment and reconfiguration of shop front to include the relocation of the entrance, removal of low level planter and installation of small double doors to form external storage cupboard, new full height glazing with frames finished in Khaki Green Ral 6015, new stall riser and fully automated sliding entrance door to be fitted. Installation of new aluminium fascias panels and trespa cladding to the columns with the installation of 1 no internal LCD promotional screen, replacement and new	Approved	09.11.2015

signage.

23/00096/ADV	Proposed installation of 2no. digital 75 inch LCD display screen, one on each side of the Street Hub unit.	Current
23/00128/FUL	Proposed installation of proposed street hub and associated display of advertisement to both sides of unit.	Current

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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
CP2 Improving the Transport Network
CP3 Improving the Telecommunications Network

Status of the Local Plan

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.

5. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site comprises of a section of pavement outside of a fast food restaurant / take away establishment located within the Town Centre of Clacton. The surrounding buildings typically serve commercial premises to the ground floor and residential above.

The site is located on a section of road which forms a prominent bend around to Pier Avenue.

Proposal

This application seeks planning permission for the proposed installation of BT Street Hub.

The new street hub structure contains advertisements on both sides of the unit. This unit will be an electronic advertisement and will have other benefits such as WIFI and emergency services calling.

Assessment

Design and Appearance

Paragraph 130 of the National Planning Policy Framework 2021 (NPPF) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment, function well and add to the overall quality of the area, and establish or maintain a strong sense of place.

Paragraph 106 of the NPPF States that the quality and character of places can suffer when advertisements are poorly sited and designed. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

Adopted Tendring District Local Plan Section 1 (TDLPS1) Policy SP7 seeks high standards of design that responds positively to local character and context. Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) state all new development must make a positive contribution to the quality of the local environment, and must relate well to its site and surroundings particularly in relation to its siting, scale and form.

The proposal will be located in front of the existing fast food restaurant/ takeaway establishment in the core of the town centre shopping area and will be a noticeable and prominent addition within the streetscene.

The introduction of this illuminated digital advertisement unit by virtue of its size and design would appear as a prominent and harmful feature detrimental to visual amenity and the character and appearance of the local area.

The proposal is therefore considered not to respond accordingly to the character and appearance of the streetscene and locale and would result in a significantly harmful impact in terms of visual amenity.

Adopted Policy CP3 states that proposals for new telecommunications infrastructure will be supported where they utilise existing masts, buildings and other structures and where the applicant can demonstrate that: a) they will not cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest; and b) the possibility of other planned development in the area interfering with broadcast and telecommunications has been considered and addressed.

Proposals for new masts, buildings or other structures associated with the communications network will only be approved where the applicant, in addition to meeting criteria a) and b) above, can demonstrate that: c) the development cannot, for practical or economic reasons, be incorporated into or onto existing masts, buildings and other structures; and d) the development will be sympathetically designed, having regard to its appearance and impact upon local visual amenity and camouflaged if necessary.

The proposed street hub is for a new standalone structure, however it is accepted that this is not a standard telecoms proposal and site sharing is very unlikely to be a viable possibility for this type of unit. However, the chosen siting and unsympathetic design in terms of its size and illumination would appear as an incongruous feature in the streetscene to the detriment of visual amenity and the character of the surrounding area.

Highway and Public Safety

Paragraph 106 of the NPPF States that the quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

Policy CP2 of Part 2 of the Adopted Local Plan 2013-2033 and Beyond, also states that planning permission will not be granted if there would be an unacceptable impact on highway safety.

As indicated on drawing; BT STREETHUB CLN-212, the unit is located close to the edge of carriageway.

The location of the unit is positioned on the inside of a bend adjacent to the carriageway which will impact on the visibility of any pedestrian crossing in the vicinity of the unit and Pier Avenue. The site is a busy pedestrian friendly location and the interference which this proposal would engender for both pedestrians and approaching vehicles who would be distracted by the advertisements, would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety.

ECC Highways Authority have been consulted on the application and object to the proposal. It is noted that the applicants are advised to seek consent from ECC who own the land before submitting applications on their land.

Other Considerations

Clacton is non parished and therefore comments of this nature are not required. There have been no letters of representation received.

Conclusion

The proposal is therefore considered contrary to local and national policy resulting in a significantly harmful impact to the visual amenity of the area and public safety. The benefits of the proposal such as public WIFI and emergency services calling are not considered to outweigh this harm.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 1 Paragraph 130 of the National Planning Policy Framework 2021 (NPPF) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment, function well and add to the overall quality of the area, and establish or maintain a strong sense of place.

Adopted Tendring District Local Plan Section 1 (TDLPS1) Policy SP7 seeks high standards of design that responds positively to local character and context. Adopted Policy CP3 states that proposals for new masts, buildings or other structures associated with the communications network will only be approved where the applicant can demonstrate that: c) the development cannot, for practical or economic reasons, be incorporated into or onto existing masts, buildings and other structures; and d) the development will be sympathetically designed, having regard to its appearance and impact upon local visual amenity and camouflaged if necessary.

The introduction of this illuminated digital advertisement unit by virtue of its unsympathetic design in terms of its size and illumination would appear as a prominent and harmful feature located in the core of the town centre shopping area detrimental to visual amenity and the character and appearance of the local area.

The proposal is therefore considered not to respond accordingly to the character and appearance of the streetscene and locale and would result in a significantly harmful impact in terms of visual amenity contrary to the above-mentioned policies of the Tendring District Local Plan 2013-33 and the relevant sections of the NPPF.

- 2 Policy CP2 of Part 2 of the Adopted Local Plan 2013-2033 and Beyond states that planning permission will not be granted if there would be an unacceptable impact on highway safety.

The unit is positioned on the inside of a bend adjacent to the carriageway which will impact on the visibility of any pedestrian crossing in the vicinity of the unit and Pier Avenue. The site is a busy pedestrian friendly location and the interference which this proposal would engender for both pedestrians and approaching vehicles who would be distracted by the

advertisements, would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety.

The proposal therefore conflicts with the above policies resulting in a harmful impact to public and highway safety contrary to the above-mentioned policies of the Tendring District Local Plan 2013-33 and the relevant sections of the NPPF.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

Existing and Proposed Site Photo
Street Hub Brochure
Product Statement
Planning Supporting Statement
Noise Management Plan
Frequently Asked Questions
Anti Social Behaviour Management Plan
Site and Location and Block Plan
Proposed Elevations