

## 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       | 16/03/23 |

**Application:** 23/00099/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** Mr James Browne - British Telecom Plc

**Address:** Footpath outside The Moon and Starfish Marine Parade East

**Development:** Proposed installation of BT 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  
16.02.2023

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-209, the unit is located too close to the edge of carriageway. The location of the unit is positioned only half metre back from the edge of carriageway and is in the vicinity of a formalised pedestrian crossing and it will impact on the visibility of any pedestrian crossing in the vicinity of the unit and Marine Parade East, in a busy pedestrian friendly location, the proposal would create an obstruction where members of the public are entitled to pass and repass over highway land unobstructed. 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: A Highway Boundary Plan should be obtained from ECC Highway Records to establish the line of the highway boundary to the front of the shops to establish whether an alternative and more appropriate location can be found to the back of the footway. Email address Highway.Status@essexhighways.org

4: 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  
07.02.2023

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

I have reviewed the application and can confirm that Environmental Protection have no comments to make.

Essex County Council  
Heritage  
10.02.2023

The application is for proposed installation of BT Street Hub and associated display of advertisement to both sides of unit.

The proposal site is in a prominent position within the Clacton Seafront Conservation Area and in close proximity to a number of designated and non-designated heritage assets, including, but not limited to:

- Grade II Listed Clacton-on-Sea War Memorial;
- Grade II Listed Clacton Seafront Gardens.

The Royal Hotel, with The Moon and Starfish Pub at ground floor, forms a prominent part of Bruff's planned resort and was among the first buildings constructed in 1872. The building features in historic images of the Pier, prominently located within views from the Pier Gap and the seafront. The Pier itself is the central focus for the historic planned seaside resort, and, with the Pier Gap, physically and visually connects the beach with the settlement. These heritage assets make a positive contribution to the area and enhance our understanding of Clacton's development and intended purpose as a seaside resort.

In terms of the existing street furniture within the public spaces around the proposal site, the Registered Park to the west of the Pier Gap consists in a series of formal gardens connected by a walkway and unified by high quality street furniture, planting, and pavilions. This is in contrast with the lower quality of the public space along Marine Parade to the East, characterised by the presence of modern seaside amusements.

As also noted in the supporting heritage statement, structures similar to the proposed might be found in the area, however these do very little to enhance or preserve the historic character of the Conservation Area. The proposed Hub, with its dominant LED screen showing images in continuous movement, would therefore introduce a further incongruous and dominant feature within the street scene and within the key views along Marine Parade and from/towards the Pier.

The Hub is therefore not considered to 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. The harm to the significance of the Conservation Area is 'less than substantial' and paragraph 202 of the NPPF is relevant. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable.

Furthermore, the proposed fail to make a positive contribution to local character and distinctiveness, as set out in Paragraph 197c of the NPPF and does not preserve those elements of the setting that make a positive contribution to the identified heritage assets or which better reveal their significance (Paragraph 206).

I advise the applicant investigate alternative locations for the installation of the proposed Street Hub.

### 3. Planning History

|                     |  |               |            |
|---------------------|--|---------------|------------|
| 96/01419/FUL        | (The Royal Hotel, Marine Parade West, Clacton on Sea) Change of use of ground floor and basement to class A3 traditional ale, food and wine bar and internal alterations             | Approved      | 07.01.1997 |
| 96/01420/FUL        | (The Royal Hotel, Marine Parade West, Clacton on Sea) Change of use of ground floor and basement to Class A3 traditional ale, food and wine bar and internal alterations (duplicate) | Approved      | 07.01.1997 |
| 97/00326/ADV        | 2 No. illuminated fascia signs, 3 No. illuminated sign posts   | Approved      | 18.04.1997 |
| 97/00327/ADV        | 2 No. illuminated fascia signs, 3 No. illuminated sign posts (duplicate application)   | Approved      | 18.04.1997 |
| 97/00340/FUL        | External alterations   | Approved      | 25.04.1997 |
| 97/00341/FUL        | External alterations (duplicate application)   | Approved      | 25.04.1997 |
| 97/00946/FUL        | Replacement of store with gents W.C.'s and enclosed fireescape   | Approved      | 04.09.1997 |
| 99/00432/TELCO<br>M | Microcell antenna and equipment  | Determination | 16.04.1999 |
| 99/01703/FUL        | Installation of awnings over front windows   | Withdrawn     | 12.06.2000 |
| 07/01174/FUL        | Retention of bin store to front of building.   | Refused       | 05.09.2007 |

|              |  |          |            |
|--------------|--|----------|------------|
| 10/00583/FUL | Proposed new bin store in the car park area behind the public house to be constructed out of close boarded timber fencing. | Refused  | 16.08.2010 |
| 12/00341/FUL | Erection of bin store within car parking area adjacent to existing bin / storage area.                                     | Approved | 18.06.2012 |
| 23/00095/ADV | Proposed installation of 2no. digital 75 inch LCD display screens, one on each side of the Street Hub unit.                | Current  |            |
| 23/00099/FUL | Proposed installation of BT 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

PPL8 Conservation Areas

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 site is located outside a public house along the main seafront road in the town of Clacton on Sea. The site lies in a busy location close to a crossroads and pedestrian crossings, opposite the amusements with Clacton Pier beyond. The site lies wholly within the Clacton Seafront Conservation Area.

### Proposal

This application seeks planning permission for the proposed installation of BT Street Hub and associated display of advertisement to both sides of unit.

The new street hub structure which will contain 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 public house, very close to the busy pedestrian and vehicle junction of this main seafront road through the town with the road which serves the Pier and the main shopping area. The introduction of this illuminated digital advertisement unit by virtue of its siting, 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 Tendring District Local Plan Section 1 (TDLPS1) Policy PPL8 confirms new development within a Conservation Area will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of: a. scale and design. Paragraph 197c of the NPPF states in determining applications, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

The site also occupies a prominent position in the Clacton Seafront Conservation Area and in close proximity to the Grade II listed Clacton-on-Sea War Memorial and Grade II listed Clacton Seafront Gardens. The building it stands in front of was one of the first buildings constructed in 1872 as part of Bruff's planned resort. This highlights the sensitivity of the location and exacerbates the harm outlined above.

Under paragraph 202 of the NPPF this less than substantial harm to the significance of a designated heritage asset, should be weighed against the public benefits of the proposal. The benefits of the proposal such as public WIFI and emergency services calling are not considered to outweigh this harm.

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-209, the unit is located too close to the edge of the carriageway. The location of the unit is positioned only half a metre back from the edge of the carriageway and is in the vicinity of a formalised pedestrian crossing. It will therefore impact on the visibility of any pedestrian crossing in the vicinity of the unit and Marine Parade East, in a busy pedestrian friendly location, the proposal would create an obstruction where members of the public are entitled to pass and repass over highway land unobstructed. 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.

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. 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 proposal will be located in front of the existing public house, very close to the busy pedestrian and vehicle junction of this main seafront road through the town with the road which serves the Pier and the main shopping area. The introduction of this illuminated digital advertisement unit by virtue of its siting, size and unsympathetic design would appear as a prominent and harmful feature detrimental to visual amenity and the character and appearance of the local area.

Adopted Tendring District Local Plan Section 1 (TDLPS1) Policy PPL8 confirms new development within a Conservation Area will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of: a. scale and design. Paragraph 197c of the NPPF states in determining applications, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

The site also occupies a prominent position in the Clacton Seafront Conservation Area and in close proximity to the Grade II listed Clacton-on-Sea War Memorial and Grade II listed Clacton Seafront Gardens. The building it stands in front of was one of the first buildings constructed in 1872 as part of Bruff's planned resort. The introduction of this illuminated digital advertisement unit by virtue of its siting, size and unsympathetic design would fail to make a positive contribution to local character and distinctiveness; does not preserve the setting of the heritage assets; and does not preserve the character and appearance of the Clacton Seafront Conservation Area contrary to the above policies.

Under paragraph 202 of the NPPF this less than substantial harm to the significance of a designated heritage asset, should be weighed against the public benefits of the proposal. The benefits of the proposal such as public WIFI and emergency services calling are not considered to outweigh this harm.

- 2 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.

The unit is located only half a metre back from the edge of the carriageway and is in the vicinity of a formalised pedestrian crossing. It will therefore impact on the visibility of any pedestrian crossing in the vicinity of the unit and Marine Parade East. The proposal would create an obstruction where members of the public are entitled to pass and repass over highway land unobstructed. 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**

### 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

### 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.