

## DELEGATED DECISION OFFICER REPORT

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

**Application:** 23/00098/FUL                      **Town / Parish:** Clacton Non Parished

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

**Address:** Footpath outside Aldi Stores Ltd Pier Avenue

**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  
10.02.2023

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-210, the unit is located on the inside of a bend adjacent to a busy pedestrian friendly location and it will impact on the width of the footway directly outside the store in the vicinity of a formal crossing point. Due to the size and height of the unit it is unclear what impact the proposal will have on the visibility of the existing vehicular access to the Aldi Store, the interference which this proposal would engender for both pedestrians and approaching vehicles and vehicles exiting the store, 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: As per planning application: 12/00856/FUL the vehicular access to the Aldi Store must retain a minimum visibility splay of 2.4 metres x 43 metres in both directions, as far as can be determined from the information provided it is unclear what impact the unit has on the existing visibility splay to the right of the vehicular access (traffic approach side).

i. A Highway Boundary Plan should be obtained from ECC Highway Records to establish the line of the highway boundary to the front of the development site splay distance in both directions as measured from and along the nearside edge of the carriageway to establish whether or not the appropriate visibility splays can be achieved. Email address Highway.Status@essexhighways.org

ii. A Site Access as Proposed Layout Plan, shall be provided, which shows the appropriate clear to ground visibility splays to the right with a minor or "X" distance of 2.4 metres by "Y" distance of 43

metres as measured from the centre line of the existing access and along the nearside edge of the carriageway.

iii. The formal extent of highway coloured on the above drawing.

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

3: 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.

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

### 3. Planning History

00/01732/FUL	Mixed retail development with associated car parking and servicing facilities for Class A1 retail development. Demolition of 1 No. toilet block	Refused	15.03.2001
01/01013/FUL	Mixed used development incorporating Class A1 retail and Class B2 office development with associated car parking and servicing facilities. Demolition of toilet block	Refused	11.10.2001
02/00139/FUL	Mixed use development incorporating class A1 retail and class B1 office development with associated car parking and servicing facilities. Demolition of toilet block.	Refused	21.08.2002
91/00687/FUL	Use of whole site on Wednesdays 4pm to 9pm for car boot sales (variation of permission TEN/561/87)	Approved	26.11.1991
91/00794/FUL	Bring and sell car sales, Mondays 4pm-9pm, Fridays 4pm- 9pm	Refused	26.11.1991
91/01284/FUL	Variation of condition 2 imposed upon planning permission TEN/1448/85 to allow use to	Refused	17.12.1991

	operate from 7.30am to 2.30pm on Sundays instead of 8.30am to 4.30pm on Sundays.		
92/00257/FUL	Use of land as a full market on Fridays each week, operated at same times as markets held on Tuesdays and Saturdays (6.45am to 5.30pm)	Approved	09.06.1992
92/00441/ADV	(Warwick Castle Market Site, Old Road, Clacton on Sea) Additional advertisement panels	Approved	12.01.1993
93/00481/FUL	(Pier Avenue and other boundaries of Market Site 7, Clacton on Sea) 8 ft. high metal railing fence	Approved	08.10.1993
03/02288/FUL	Proposed non food retail/office redevelopment with new site access and ancillary parking.	Withdrawn	26.09.2005
12/00856/FUL	Regeneration of site through erection of foodstore together with associated car park and landscaping.	Approved	22.03.2013
13/00364/DISCON	Discharge of conditions on planning permission 12/00856/FUL - Condition 3 (Materials), 4 (Construction Method Statement), 5 (Wheel Cleaning Facility), 6 (Access and Highways), 7 (footway), 8 (Use of property for convenience goods) 9 (Recruitment Strategy), 10 (Scheme of Public Art), 11 (Landscaping), 12 (CCTV camera and Lighting scheme), 13 (External Lighting), 14 (Opening hours), 15 (Deliveries), 16 (Surface water strategy), 17 (Acoustic Screen) and 18 (Parking Scheme).	Approved	05.08.2013
13/00383/ADV	Proposed signage: 1 No. double faced double pole mounted illuminated sign, 1 No. wall mounted illuminated sign, 1 No. vinyl sign non illuminated sign adhered to glazing.	Approved	04.06.2013
13/00761/DISCON	Discharge of condition 10 (entrance feature details - public art) attached to planning permission 12/00856/FUL	Refused	06.08.2013
13/00809/ADV	Coloured vinyl on aluminium backing.	Approved	11.09.2013

16/02013/FUL	Variation of condition 15 of planning application 12/00856/FUL to allow for extended hours of delivery of store.	Approved	08.03.2017
18/00405/FUL	18 sqm extension to install an additional mechanical plant as a part of increased refrigeration units within the store.	Approved	08.05.2018
23/00098/FUL	Proposed installation of BT Street Hub and associated display of advertisement to both sides of unit.	Current	
23/00100/ADV	Proposed installation of 2no. digital 75 inch LCD display screen, one on each side of the Street Hub 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

Commented [SCE1]: Also need to add Policy CP3

#### **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 commercial food store premises. The site is located on the outskirts of Clacton Town Centre with buildings typically being older in age serving commercial premises to the ground floor and residential above. The nearest building is large in size and benefits from a relatively open frontage with associated car parking and minimal amounts of existing street furniture.

The site is located on a section of road which is wider in comparison to others and is located opposite a car park further exuding its presence within the locale.

##### 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.

Adopted Tendring District Local Plan Section 1 (TDLPS1) Policy SP7 seeks high standards of design that responds positively to local character and context.

The proposal will be located in front of the existing foodstore and near to its access to the car park making it a noticeable and prominent addition within the streetscene. This section of the public pavement is open in character with a prominent piece of public artwork and very little street furniture within its vicinity. The introduction of this unit would therefore interrupt this open character and by virtue of its size and design would appear as a prominent and harmful feature to the detriment of 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. A separate application for advertisement consent has been submitted and is detailed above. The unit is located on the inside of a bend adjacent to a busy pedestrian friendly location and it will impact on the width of the footway directly outside the store in the vicinity of a formal crossing point.

Due to the size and height of the unit it is unclear from the submitted information what impact the proposal will have on the visibility of the existing vehicular access to the Aldi Store, and the interference which this proposal would engender for both pedestrians and approaching vehicles, and vehicles exiting the store. Obstruction of these visibility splays 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.

This section of the public pavement is open in character with a prominent piece of public artwork and very little street furniture within its vicinity. The introduction of this illuminated digital advertisement unit would therefore interrupt this open character which would further be exacerbated by virtue of its size and unsympathetic design in terms of its size and illumination appearing 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 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 located on the inside of a bend adjacent to a busy pedestrian friendly location and it will impact on the width of the footway directly outside the store in the vicinity of a formal crossing point.

Due to the size and height of the unit it is unclear from the submitted information what impact the proposal will have on the visibility of the existing vehicular access to the Aldi

Store, and the interference which this proposal would engender for both pedestrians and approaching vehicles, and vehicles exiting the store. It has not been demonstrated that obstruction of these visibility splays would not 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