



Report Reference Number: E/13/34

To: Executive
Date: 5 December 2019
Status: Non Key Decision
Author: Paula Craddock, Senior Planning Policy Officer
Lead Executive Member Cllr Richard Musgrave, Lead Executive Member for Place Shaping
Lead Officer: Dave Caulfield, Director of Economic Regeneration & Place

Title: Proposed removal by British Telecom (BT) of eleven BT Payphones in the Selby District.

Summary:

On 28 August 2019 British Telecom (BT) notified Selby District Council of their proposed removal of eleven payphones (and call boxes) in the Selby District (see Appendix 1). There is a tight statutory deadline to consult and respond. If no response is made, the phoneboxes will be removed. This report therefore seeks **delegated authority** from Executive to the Director of Economic Regeneration & Place in consultation with the Lead Councillor for Place Shaping to take a decision.

According to BT the consultation has been driven by the decline in the overall use of payphones. Local authorities have the right (and thus a responsibility) from Ofcom, the telecommunications regulator, to gather views from local communities and to provide a reasoned response either objecting or agreeing to the removal of payphones.

The Council has carried out an initial consultation with local communities by contacting Parish and Town Councils and the responses received are set out in Appendix 1.

The next stage of the process is for the Council to publish its draft decision in the form of a notification ("the First Notification"). This invites further representations by the public and other local public bodies. A copy of the First Notification is sent to the Secretary of State. After the set time period for the First Notification the Council must make a final judgement on retaining or removing payphones by considering relevant factors set out in Ofcom's guidance and based on the views of the public and Parish and Town Councils, the quality of mobile phone coverage, the use for 999 calls and usage by local communities.

It is considered that payphones should be seen as a key part of the resilience and emergency infrastructure of local communities.

Recommendations:

1. To approve the scope of the consultation as set out in Appendix 2 and the publication of the First Notification for further consultation as set out in Appendix 3.
2. To delegate authority to the Director of Economic Regeneration & Place in consultation with the Lead Councillor for Place Shaping to make a decision in relation to any further responses received to the First Notification and to determine the final response (the “Final Notification”) to BT and the Secretary of State.

Reasons for recommendation

The Council has a right to respond to this consultation in line with the 2005 Ofcom (Office of Communications) rules for the removal of telephones and phone boxes. These rules give Local Authorities the power to object to such removals and this report seeks approval for consultation to take place on an initial objection, and delegated authority be given to the Director of Economic Regeneration & Place to consider the results and whether to maintain objection in consultation with the Lead Councillor for Place Shaping.

1. Introduction and background

- 1.1 In 2005 Ofcom (Office of Communications) agreed a new set of rules which BT must follow if it wishes to remove the only telephone box in a local area. These rules give Local Authorities the power to provide evidence to retain the payphones and veto the removal.
- 1.2 The Council was informed by BT of its proposal to remove eleven payphones in August 2019 and the 42 Day Notices were posted by BT in each of the payphones proposed for removal. These Notices advised people to contact the Local Planning Authority with their comments on the proposed removal. Only one response was received as a result of these notices. This was from a member of the public at Whitley wanting to retain the payphone,
- 1.3 The Council followed Ofcom’s guidelines to carry out a two stage consultation exercise, the first stage commenced immediately after receiving the notification letter in August. The Council informed Parish and Town Councils on 29 August 2019, 3 September 2019 and again on 24 September 2019 with a request to respond by 7 October 2019. The Council sent a further email to the Parish and Town Councils seeking clarification on some responses.

2. The Report

First Stage Consultation: pre-First Notification

- 2.1 The Council, in its emails to the Parish and Town Councils, asked whether they objected to or supported BT’s proposal to remove their payphone. The BT consultation letter was forwarded to them which also provided links to further information and Ofcom advice. The information provided from BT records showed

that calls had been made in the last 12 months from all 11 payphones. The usage ranged from 2 calls to 116 calls.

- 2.2 As part of the consultation information regarding BT's 'adopt a phone box' scheme was included so that communities could also consider an alternative use for the phone box or kiosk if the payphone was removed.

Results of the First Stage consultation

- 2.3 Of the ten relevant Town and Parish Councils consulted, seven responded to the first stage consultation regarding 8 of the 11 payphones (2 payphones are located in Church Fenton). The responses are set out in Appendix 1. The initial responses indicate that:
- two Parish/Town Councils object to the proposed removal and wish to retain their payphones as they are still in use;
 - one wishes to retain both payphones in their parish but if they are removed would like to adopt the 2 phone boxes;
 - one wishes to adopt their phone box, but did not clarify either support or not for the removal of the payphone;
 - one did not want to adopt the phone box, but again did not clarify either support or not for the removal of the payphone, and
 - two supported the removal of their payphones and did not wish to adopt the phone boxes.

First Decision

- 2.4 It is clear that payphones need to be considered as a key part of the resilience and emergency infrastructure of local communities. The Core Strategy Local Plan (2013) resists the loss of existing services and facilities and encourages the establishment of new facilities to serve the day-to-day needs of existing communities and the planned growth of communities outside of the established town centres (Policy SP14). The main objectives of the community services policies in the Selby District Local Plan (2005) set out to safeguard and enhance the provision of community facilities and to ensure that redundant community facilities are re-used for uses that benefit local communities.
- 2.5 The District Council has been gathering information in line with the guidance provided by Ofcom for considering whether or not a payphone should be removed. This includes: housing tenure, population / households, number of emergency calls and mobile phone coverage. For example: Selby District is generally covered by mobile phone signals. However, there are differences in the quality of the service provision between the four main providers: Vodaphone, O2, EE and 3. Some areas of the district including those settlements where the identified payphones are located do not have a reliable signal from each of these service providers.
- 2.6 With respect to heritage designations, three payphones and phone boxes are within designated Conservation Areas and two of these phone boxes are traditional red phone boxes (Stillingfleet and Monk Fryston). A further traditional red phone box and payphone is within an area that is identified as a potential Conservation Area in the emerging Church Fenton Neighbourhood Plan. The contribution each payphone

and phone box makes to the street scene is important and is considered. The Selby phone box identified for potential removal is a modern kiosk, but is just outside of the Millgate Conservation Area. Whilst 2 more of the identified phone boxes are traditional red phone boxes and can be considered to positively contribute to the street scene (Church Fenton and Cridling Stubbs).

- 2.7 For the First Notification it is suggested that as a call has been made from every payphone in the last 12 months, and considering other factors, such as the responses from the consultees, housing tenure in the area, population, conservation area designation, emergency calls and mobile phone coverage it is proposed that all eleven proposed payphone removals are objected.

Second Stage Consultation: post First Notification

- 2.8 The second stage consultation is the publication of the First Notification for comments. It is proposed that this will begin on 18 December 2019 and close at 5.00pm on 20 January 2020. Consultees will be asked whether they support, or not, the Council's First Decision. The local Fire, Police and Ambulance services will also be invited to respond to the consultation.
- 2.9 It is proposed the First Notification will be publicised in accordance with Appendix 2.
- 2.10 After receipt of any responses to the First Notification the Director of Economic Regeneration & Place in consultation with the Lead Councillor for Place Shaping will consider the responses and determine the Final Notification to be sent to BT and the Secretary of State detailing the Council's decision regarding each of the eleven payphones.

3. Alternative Options Considered

- 3.1 If a consultation process by the District Council publishing the "First Notification" does not take place then all the payphones identified by BT will be removed. Consultation gives an opportunity for consultees to have a say in the decision making process regarding payphone removal.

4. Implications

4.1 Legal Implications

- 4.1.1 There are no legal implications attached to this decision. The Council has followed the guidelines for consultation as set down by Ofcom and kept BT informed of the process being followed.

4.2 Financial Implications

- 4.2.1 There are no financial implications for the Council regarding the potential removal of the eleven payphones. In objecting to the proposed removal, the Council will need to ensure that the reasons for objecting are fully reasoned, robust and defensible to reduce any risk of costs.

4.2.2 The decision to adopt a phone box, should the payphone be removed, is the decision of the relevant Parish and Town Council in an agreement with BT. There will be no financial implications for the Council regarding the maintenance of the phone box.

4.2.3 The preparation of the current consultation material and arrangements for the consultation process will be met by the Planning Policy Team budget.

4.3 Policy and Risk Implications

4.3.1 The Ofcom guidelines set out that the consultation by BT allows for a 90 day consultation period for the completion of the 42 Day Notices posted by BT, the consideration by the Local Authority of any responses to the 42 Day Notice, the publication of the First Notification and the consideration of the consultation responses before the Local Authority decides on the Final Notification. To meet Executive timetabling and due consideration of the responses, Officers have negotiated with BT an extension of the 90 days to 31 January 2020. By delegating to the Director of Economic Regeneration & Place in consultation with the Lead Councillor for Place Shaping to make a decision on the Final Notification, there is minimal risk that the Council will miss this deadline.

4.3.2 Failing to respond to the consultation by the deadline agreed will mean that all eleven payphones will be removed. Only those phone boxes (with no payphone inside) where the Parish or Town Council has agreed with BT to adopt a phone box will be retained for an alternative use.

4.4 Corporate Plan Implications

4.4.1 To make a difference – the consultation will empower and enable people and communities to be involved in decisions that affect their area

4.5 Resource Implications

4.5.1 The preparation of the consultation material and arrangements for the consultation process will be met by the Planning Policy Team budget.

4.6 Other Implications

Data Protection

4.6.1 The consultation arrangements meet the requirements under the General Data Protection Regulations (GDPR). The Planning Policy Privacy Notice together with the Corporate privacy Notice will be drawn to the attention of those submitting comments on the First Notification.

4.7 Equalities Impact Assessment

4.7.1 Selby District Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics: age, disability, gender

reassignment, marriage and civil partnership, pregnancy and maternity race, religion or belief, sex and sexual orientation. The removal of payphones, particularly in areas where there is limited mobile phone network coverage or a predominance of elderly / vulnerable residents who may not have access to a mobile phone or landline, will create a variety of disadvantages for those residents and the wider community to engage. However, BT has a duty under the Equality Act 2010 to ensure that services are accessible and that it is not indirectly discriminating against the disabled or elderly.

4.7.2 Therefore, it is suggested that the Council should raise this with BT when responding with the Council's Final Notification.

5. Conclusion

5.1 The publication and consultation on the First Notification will meet the Ofcom guidelines for consultation on the potential removal of payphones. It will also provide the wider community with the opportunity to be involved in the decision making process.

5.2 The Executive are asked to consider this report on the consultation undertaken to date and to release the First Notification (as in Appendix 3) for consultation as set out in Appendix 2. The Executive are also asked to consider delegating authority to the Director of Economic Regeneration & Place in consultation with the Lead Councillor for Place Shaping to make a decision in relation to any responses received to the First Notification and to determine the final response (the "Final Notification") for sending to BT and the Secretary of State.

6. Background Documents

None

7. Appendices

Appendix 1 – List of Payphones and responses

Appendix 2 - Consultation proposed

Appendix 3 - Draft First Notification

Contact Officer:

Paula Craddock

Senior Planning Policy Officer

pcraddock@selby.gov.uk

01757-292096