



Appeal Decisions

Site visit made on 4 July 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal A Ref: APP/T4210/H/22/3307213

Pavement o/s 25 The Rock, Bury BL9 0JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Browne of BT Telecommunications Plc against the decision of Bury Metropolitan Borough Council.
 - The application Ref 68443, dated 26 April 2022, was refused by notice dated 11 August 2022.
 - The development proposed is described as 'proposed installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks.'
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Appeal B Ref: APP/T4210/W/22/3307214

Pavement o/s 25 The Rock, Bury BL9 0JP

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 against the refusal to grant express consent.
 - The appeal is made by Mr James Browne of BT Telecommunications Plc against the decision of Bury Metropolitan Borough Council.
 - The application Ref 68444, dated 26 April 2022, was refused by notice dated 11 August 2022.
 - The development proposed is described as 'proposed installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks.'
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks at the pavement o/s 25 The Rock, Bury BL9 0JP in accordance with the terms of the application, Ref 68443, dated 26 April 2022, subject to the conditions set out in the Schedule to this Decision.

Appeal B

2. The appeal is allowed and express consent is granted for the installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens at the pavement o/s 25 The Rock, Bury BL9 0JP, in accordance with the terms of the application, Ref 68444, dated 26 April 2022. The consent is for five years from the date of this decision and is subject to the five conditions set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the additional condition set out in the Schedule to this Decision

Preliminary Matters

3. The two appeals are for related proposals on the same site. Appeal A concerns the refusal of planning permission to erect a BT Street Hub. Appeal B concerns the refusal of express consent to display advertisements on the Street Hub. I have considered each appeal proposal on its merits, however, as they raise similar issues, I have combined both decisions in a single decision letter.
4. The description of development given in the formal decisions above omits some of the text from the description provided on the planning application form. The omitted text, 'proposed', does not describe acts of development or the advertisement proposals. In addition, advertisement consent is not required, and cannot be granted, for the removal telephone booths. As such, reference to the 'removal of associated BT Kiosks' has been omitted from the decision for Appeal B.
5. The Council has drawn my attention to Policy EN1/9 of the Bury Unitary Development Plan (UDP) in the decision that is the subject of Appeal B, and I have taken it into account as a material consideration. However, the Regulations stipulate that control may be exercised only in the interests of amenity and public safety. UDP Policy EN1/9 has not, therefore, by itself been decisive in my determination of Appeal B.
6. The Appellant has referred to the emerging Bury Local Plan. However, the evidence indicates that this is at an early stage and therefore the policies within it, as material planning considerations, cannot be afforded full weight in the determination of these appeals.
7. The Appellant has referred to the proposal being located close to a Locally Listed Station Building. The Council has, however, confirmed that there are no locally listed buildings close to the appeal site.

Main Issues

8. The main issues in both appeals are as follows:
 - The effect of the proposals on the character, appearance, and visual amenity of the area; and
 - The effect of the proposal on public safety, with particular regard to the pedestrian environment and emergency access.

Reasons

Character, appearance and visual amenity

9. The appeal site is located within the town centre close to the Bury Conservation Area boundary. This part of The Rock is characterised by the retail and commercial uses that line it. The appeal site forms part of a wide paved area at the junction of The Rock and Union Street which provides pedestrian access into the Mill Gate Shopping Centre. The area immediately surrounding the appeal site currently contains trees and street furniture including two telephone kiosks, bollards, bike stands, and a bin. In the wider street scene there are a series of digital advertisement boards and benches located along one side of a narrower section of The Rock.

10. The existing telephone kiosks to be removed are sited between two raised brick planters containing trees. The Street Hub would be sited in a more prominent position and would be taller than the telephone kiosks it would replace. It would not be on the same side of The Rock as the existing digital advertisement boards. Nonetheless, its slender profile and muted colour scheme combined with its siting close to the bike stands, tree planters and bin would ensure that it would not appear as an isolated or conspicuous structure within the street scene. It would not materially diminish the visual qualities of this part of the town centre for shoppers or other visitors. Furthermore, notwithstanding the distance that the Street Hub would be away from the existing kiosks, the kiosks would be removed and, as such, the amount of street furniture within this general area would be reduced. Overall, the appearance of this part of the town centre would be improved and thereby the character and appearance of the nearby Bury Conservation Area would be preserved.
11. Advertisement displays by their very nature are meant to be noticeable and draw the eye and are a common feature in urban locations. On a busy commercial thoroughfare within sight of existing digital advertisements, as proposed, the proposed advertisements would not appear as an incongruous feature that unacceptably affects the visual amenity of the area.
12. Having regard to the above, I find that the proposed Street Hub would not result in an excess and over-proliferation of street furniture or advertisements when considered individually or cumulatively, including when taking the line of existing digital advertisement boards into consideration.
13. Accordingly, in relation to Appeal A, the proposed Street Hub would not be harmful to the character and appearance of the area. As such, in respect of Appeal A, the proposals would accord with Policies EN1/1, EN1/2, and EN1/4 of the Bury Unitary Development Plan (UDP). Such policies seek, amongst other things, to ensure proposals do not have an unacceptable adverse effect on character and townscape especially areas of architectural or historic interest and encourage the provision of suitably located and well-designed street furniture. In addition, in respect of Appeal A, the proposals accord with UDP Policy EN1/10 which require that proposals for new telecommunications developments have regard to, amongst other things, visual and physical impact.
14. Policies HT5/1 and HT6/1 have been referenced in the first reason for refusal, however, these policies relate to matters of access which are not relevant to this main issue.
15. In respect of Appeal B, the proposals would accord with UDP Policy EN1/9 insofar as it is relevant to amenity.

Public safety

16. Whilst the proposed Street Hub would be sited in a position outside of the existing delineation of street furniture, it would make little difference to the useable pedestrian area on The Rock, given its limited scale and footprint. The space around the proposed Street Hub would be greater than is currently available at the narrowest point of The Rock. Ample space would be retained to enable pedestrians to pass around it without significantly deviating from their route, thereby maintaining existing desire lines. The pavement would

therefore continue to be wide enough to accommodate a high volume of pedestrian traffic without undue hindrance even to those that are mobility impaired or with special needs.

17. Consequently, the proposal would not result in an undue obstruction to the movement of, or create a risk of conflict between, pedestrians even if a group were to use the Street Hub. In the absence of any evidence to the contrary, the proposal would also not result in any highway danger by virtue of an obstruction to existing emergency access routes. Furthermore, there is little before me to demonstrate that the proposal would be contrary to the Council's active travel aspirations.
18. Reference is made in the decision to the absence of agreement with the Highway Authority for the placement of the proposed Street Hub on the adopted highway. However, this is not a matter that weighs against the proposals.
19. Accordingly, in relation to Appeal A, the proposed Street Hub would not be harmful to public safety, with particular regard to the pedestrian environment and emergency access. In respect of Appeal A, the proposals would therefore accord with UDP Policies EN1/4, HT5/1, and HT6/1. Such policies seek, amongst other things, to ensure proposals do not interrupt main pedestrian flows, do not adversely affect the safety of pedestrians and cyclists, ensure satisfactory access for those with special needs and discourage crime.
20. Policies EN1/10 have been referenced in the second reason. However, since it does not refer to public safety, it is not relevant to my consideration of this issue.
21. With regards to Appeal B, the proposals would not be harmful to public safety and would therefore accord with UDP Policy EN1/9 insofar as it is relevant to such a consideration.

Other Matters

22. I have had regard to the response on behalf of the Greater Manchester Police. I note, however, that the Council have not raised concerns about the potential of the unit attracting or increasing incidents of anti-social behaviour and loitering. In addition, the Council has not suggested the imposition of a condition to reduce any such risk. Based on the information before me, I have no reason to disagree with the Council.

Conditions

23. The Council has suggested matters that should be addressed within conditions. The Appellant has had the opportunity to comment upon the suggested conditions and I have considered them against the advice in the National Planning Policy Framework and Planning Practice Guidance.

Appeal A

24. In addition to the standard time limit condition limiting the lifespan of the planning permission I have, in the interests of certainty, attached conditions specifying the approved plans. A condition requiring compliance with the submitted details is also necessary to ensure that the appearance of the proposals would be satisfactory. In addition, a condition has been imposed for

the removal of the existing telephone kiosks to improve the appearance of the area and reduce street clutter.

25. If the Street Hub ceases to be used for telecommunication purposes the Council proposes that it should be removed. However, the Street Hub also contains LCD advert screens. In the absence of any compelling evidence that demonstrates that the Street Hub should only be retained when also utilised for telecommunication purposes, this requirement is not reasonable or necessary. Such a condition has not, therefore, been imposed as it does not meet the policy tests.

Appeal B

26. The five standard conditions imposed by the Regulations are necessary, but do not need to be repeated in this decision. The Regulations also specify that an express consent shall be subject to the condition that it expires at the end of such a period that the local planning authority may specify in granting the consent or where no period is specified, a period of 5 years. The Council has suggested a period of 5 years to which the Appellant has not objected, notwithstanding that consent is sought for a 10-year period. The consent will therefore be subject to a condition that specifies that the consent expires at the end of 5 years.
27. A condition restricting the brightness of the advertisements and to require the screen to automatically switch off in the event of breakdown or malfunction is necessary in the interests of the visual amenity of the area.
28. I have not imposed conditions specifying that no advertisement shall be displayed that resemble road signs, include visual effects or specify the minimum display time or the interval between each piece of content. Such conditions are not reasonable or necessary in the interests of public safety or amenity given the location of the appeal site.

Elaine Moulton

INSPECTOR

Schedules of Conditions

Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Maps 001 Revision A; Proposed Site Plan 002 Revision A; and Existing and Proposed Elevations 003 Revision A.
- 3) The external surfaces of the development shall be constructed using the materials, finishes and colours as described in the BT Street Hubs Product Statement v1.0 February 2021 and as shown on the BT Street Hub Proposals Renders 2021.
- 4) Before the development hereby approved is brought into use, the existing telephone kiosks indicated for removal, shall be removed and the street surface made good to match the adjoining footway surface materials.

Appeal B

- 1) The luminance levels of the free-standing sign hereby approved shall not exceed 2500 cd/m² during daylight hours or 600 cd/m² at any other time to accord with the recommendations of the Institute of Lighting Professionals Guide 05 (PLG05) Brightness of Illuminated Advertisements. The display panel shall be fitted with a light sensor, designed to adjust the brightness to changes in ambient light levels. In the event of breakdown or malfunction the screen shall automatically switch off.

End of Schedules