



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/22/3307215

Pavement between Racconto Lounge and Fone Tech, The Rock, Bury BL9 0PJ

- 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 68445, dated 26 April 2022, was refused by notice dated 10 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/22/3307216

Pavement between Racconto Lounge and Fone Tech, The Rock, Bury BL9 0PJ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (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 68446, dated 26 April 2022, was refused by notice dated 10 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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Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

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 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 Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (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.

5. The Council has confirmed that reference to UDP Policy EN5/1 in the decision notice was in error and that the correct policy is UDP Policy HT5/1. The Appellant has had the opportunity to take this into consideration. Although the Appellant has chosen not to provide comments I have, nonetheless, taken UDP Policy HT5/1 into consideration in the determination of Appeal A.
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. Notwithstanding the description of development in the heading above, which has been taken from the application form, the appellant has confirmed that existing kiosks are not being removed as part of the proposal. I have determined the appeal on that basis.

Main Issue

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 emergency access and the pedestrian environment.

Reasons

Character, appearance and visual amenity

9. The appeal site is a wide paved area on The Rock between the largely blank brick wall of a restaurant and a row of retail and commercial units. The proposed Street Hub would be in a broadly central position within the space that contains a very limited amount of street furniture. Positioned at the end of a narrower, lively section of The Rock containing significantly more street furniture including a line of digital advertisement boards, the appeal site and surroundings provide a welcome, open, and uncluttered area. In the context of the appeal site surroundings the proposed Street Hub, due to its scale, height and positioning, would be an isolated and visually dominant feature in the space. The presence of the information unit at the pinnacle of the junction of The Rock and Central Street, which is in a slightly less prominent position and does not incorporate digital advertising material, does not provide a justification for the siting of the proposed Street Hub.
10. Accordingly, in relation to Appeal A, the proposed Street Hub would be harmful to the character and appearance of the area. As such, in respect of Appeal A, the proposals would conflict with Policies EN1/2, EN1/4 and EN1/9 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 including areas of architectural or historic interest and encourage the provision of suitably located and well-designed street furniture. In addition, the proposals would not accord with UDP Policy EN1/10 which requires

proposals for new telecommunications developments have regard to, amongst other things, visual and physical impact.

11. The Council has also referred to Policies HT5/1 and HT6/1 in the second reason for refusal, however, such policies relate to matters of access which are not relevant to this main issue.
12. With regard to Appeal B, the proposals would have an unacceptable effect on the amenity of the area and would be conflict with UDP Policy EN1/9 insofar as it is relevant to amenity.

Public safety

13. The proposed Street Hub would, due to its limited scale and its siting in a broadly central position on a wide area, maintain an emergency access route. In addition, it would make little difference to the space available for manoeuvring of emergency vehicles, including times when several such vehicles access the area from different directions. Furthermore, given its limited scale, footprint and siting, there would continue to be an ample and useable pedestrian area on The Rock wide enough to accommodate a high volume of pedestrian traffic without undue hindrance. Pedestrians would be able to pass around the Street Hub without significantly deviating from their route, thereby maintaining existing desire lines.
14. Consequently, the proposal would not result in any highway danger by virtue of an obstruction to emergency access routes and would not result in an undue obstruction to the movement of, or create a risk of conflict between, pedestrians to the detriment of their safety. Furthermore, there is little before me to demonstrate that the proposal would be contrary to the Council's active travel aspirations.
15. 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.
16. Accordingly, in relation to Appeal A, the proposed Street Hub would not be harmful to public safety, with particular regard to emergency access and the pedestrian environment. In respect of Appeal A, the proposals would therefore accord with UDP Policies EN1/4, EN1/5, HT5/1, HT6/1, and EN1/9. 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.
17. Policies EN1/2 and EN1/10 have been referenced in the second reason for refusal, however, these policies do not address public safety and, as such, they are not relevant to this main issue.
18. 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

19. The proposals provide a number of benefits to the local community which include free ultrafast Wi-Fi, free phone calls, wayfinding, device charging, an

emergency 999 call button, public messaging capabilities, and a platform for interactive technologies on the streets such as air quality monitoring. Whilst I recognise that the proposed Street Hub is intended to be part of a wider network, for the purposes of these appeals I must assess the proposals on their own merits. In this respect, there is little before me to suggest that there are no alternative solutions or viable alternative sites, including those in less prominent positions, that could provide a realistic alternative. Consequently, the benefits identified only weigh moderately in favour of the proposals.

20. As identified above, the proposals would be harmful to the character, appearance and visual amenity of the area to which I ascribe substantial weight. Considering this, in relation to Appeal A, I find that the matters advance in support of the proposal do not, either individually or collectively, outweigh the harm or conflict with the development plan identified.
21. In respect of Appeal B, a similar range of benefits would arise. However, the Regulations make it clear, as set out above, that advertisements should be controlled only in the interests of amenity and public safety. Therefore, in relation to Appeal B, none of the other considerations raised changes my findings on the main issues.

Conclusion

22. Whilst I have found that the proposals would not be harmful to public safety, this does not outweigh the harm to the character, appearance, and visual amenity of the area that I have identified. The proposals conflict with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
23. I conclude that the Appeals A and B should be dismissed.

Elaine Moulton

INSPECTOR