

DELEGATED REPORT

Report by Mark Kilby	Date of report: 12/08/2022	Ref: 68442/ADV
Registration: 12/05/2022	LDFC:	Expiry Date: 07/07/2022
Site Visit: 09/06/2022	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: BURY	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: ADVT

Proposal: Advertisement consent for installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks

Location: Pavement outside 7-11 Market Street, Bury, BL9 0BL

Description

An application for advertisement regulation consent for the installation of 1no. new BT Street Hub, incorporating a 75" LCD advert screen to each side of the hub. It would be sited within Bury Town Centre Conservation Area nearby to the Grade II Listed Kay Monument. The site is the pedestrianised area of Market Street and the Hub would be sited outside Nos. 7-11 Market Street (British Heart Foundation). It would sit within an existing delineation of street furniture comprising of planters, seating and stand alone advertisement displays. Pedestrian movement is predominantly either side of this delineated area.

The main Street Hub structure will be made of galvanised mild steel, with a powder coated external grade aluminium exterior. Displays will be made of tempered and toughened laminated glass. There will also be Radio Frequency transparent compartments.

The Hub comprises of and would provide the following:

- Ultrafast public and encrypted Wi-Fi Access to public services
- Multiple accessibility options powered by 100% renewable carbon-free energy
- Inspected weekly and cleaned at least every two weeks, monitored 24/7
- Secure power-only USB ports for rapid device charging
- Free phone calls Direct 999 call button
- Display community and emergency (i.e. police) awareness messaging
- Environmental sensors to measure air quality, noise, traffic and more.

The two 75-inch LCD display screens would have static illumination with changing images. A maximum day time luminance level 2500 candela per square metre (Cd/m²) automatically reducing to 600 Cd/m² at night time. The proposed Hub would replace two existing BT payphones which are distance away from the site at Rochdale Road and Heywood Street and as such their removal is not relevant to this application.

Dimensions of the Hub would be 2.960m high, 1.236m wide and 0.35m deep. .

The applicant has applied for express consent for 10 year period.

An application for planning consent, 68441, has been submitted which will assess the impact of the use and siting of the Hub as a structure requiring planning permission.

Relevant Planning History

56121 - Listed Building Consent - Replacement metal fencing; Installation of anti skateboard studs onto steps; Application of clear anti graffiti solution to all elevations and

silicon based sealant to the cap of the structure

- ZZZ Special deleted application

59609 - Redecoration of existing shop front - Approve with Conditions 25/02/2016

59610 - 4 No. internally illuminated fascia signs and 1 no. internally illuminated projecting sign - Approve with Conditions 25/02/2016

60108 - 1 No. internally illuminated fascia sign and 3 no. non-illuminated fascia signs to Mill Gate Shopping Centre

- Approve with Conditions 21/06/2016

68441 - Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks. - Approve with Conditions.

Publicity

Press Notice 7/7/22, Site Notice 9/6/22. No objections or comments received.

Statutory/Non-Statutory Consultations

Traffic Section - Objections - The proposal would result in an unnecessary obstruction of the adopted highway and the creation of additional street clutter for an installation that primarily consists of an advertisement screen that is not a direct replacement for the adjacent telephone kiosks, and without agreement for the placement of such equipment on the adopted highway with the Highway Authority, which would be detrimental to pedestrian safety, maintaining existing pedestrian desire lines on Market Street and contrary to the active travel aspirations of the Council.

Pre-start Conditions - None.

Unitary Development Plan and Policies

EN1/9	Advertisements
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN2/3	Listed Buildings
NPPF	National Planning Policy Framework

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their

comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Policy - UDP Policy EN1/9 relates to adverts and signage and states that proposals should have regard to the character of the locality, scale of the existing building and land use and be considered on their impact on amenity and safety.

Visual Amenity - The site is within the town centre. There are no residential properties to be affected. The unit would not appear significantly different to other units in the vicinity and would be of a similar size to others. The level and type of luminance is considered acceptable with regard to visual amenity. The proposal would not cause a level of cumulative visual impact or street furniture clutter that would warrant refusal.

The application seeks express consent for a 10 year period. In this case it is considered that it is reasonable to grant consent for the standard five year period after which the advert display unit would benefit from deemed consent. It would only be required to be removed under a discontinuance notice should circumstances consider it necessary.

Conservation Area - The proposal would sit within an existing delineation of street furniture in a part of the conservation area that is dominated by 20th development that is the Mill Gate and as such this area is not the strongest contributor to the character and appearance of the conservation area as a whole. The proposal would cause no more harm, either by itself or cumulatively, to the character and appearance of that part of the conservation area and as such its impact would be neutral preserving the character and appearance of it.

The proposal would comply with Section 72 of Planning (Listed Buildings and Conservation Areas) Act 1990 in its desirability to preserve or enhance the character and appearance of the conservation area and would comply with adopted UDP policies EN1/9 - Advertisements, EN2/1 - Character of Conservation Areas, EN2/2 - Conservation Area Control and paragraphs 199 and 200 of the NPPF.

Listed Kay Monument - Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require decision makers to have special regard to the desirability of preserving a listed building or its setting or any feature of architectural or historic interest it possesses. The decision maker must also give considerable importance and weight to the desirability of preserving the setting of the listed building.

The Kay Monument is a Grade II Listed Building. The proposal does not affect directly its

special architectural and historic interest. The setting of the listed building is not considered to extended beyond its garden setting. As such the proposal would not cause harm to the setting of the listed building and a such would not cause any loss of significance.

As such the proposal would preserve the significance of the listed building and therefore comply with adopted UDP policy EN2/3 - Listed Buildings and paragraphs 199 and 200 the NPPF.

Public/Highway Safety - The proposed hub would be located on the public highway within a pedestrianised shopping area.

The Highway Authority have recommended refusal for the following reasons:

The proposal would result in an unnecessary obstruction of the adopted highway and the creation of additional street clutter for an installation that primarily consists of an advertisement screen that is not a direct replacement for the adjacent telephone kiosks, and without agreement for the placement of such equipment on the adopted highway with the Highway Authority, which would be detrimental to pedestrian safety, maintaining existing pedestrian desire lines on Market Street and contrary to the active travel aspirations of the Council.

There is no definition or interpretation of the word obstruction in the Planning or Highways Acts. The ordinary Cambridge Dictionary definition of obstruction is *"something that blocks a road, passage, entrance, etc. so that nothing can go along it, or the act of blocking something in this way."* It is not considered the proposal would block in such a way that nothing could pass it. As a pedestrianised area the proposal would have no impact on vehicular traffic.

The proposal complies with UDP Policy EN1/9 - Advertisements and paragraph 136 of the NPPF.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1
 - a) 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 ILP publication 'PLG05 The Brightness of Illuminated Advertisements' (2015).
 - b) The luminance level of the digital sign shall be controlled by a light sensor to adjust the screen brightness to reflect the ambient levels during the daytime and set to a maximum brightness of 600Cdm² during hours of darkness to accord with the recommendations of the ILP publication 'PLG05 The Brightness of Illuminated Advertisements' (2015). In the event of breakdown or malfunction the screen will automatically switch off.
 - c) "The advertisement shall display no special visual effects of any kind during the time that the advertisement is displayed or on transition between advertisements. The

displayed image shall not include animated, flashing, scrolling, intermittent or video elements and the transition between successive images shall not include fading, swiping or other animated transition method.

d) The minimum display time for each piece of content on the digital display screens shall be 10 seconds.

e). The interval between each piece of content on the digital display screens shall take

place over a period no greater than one second; the complete screen shall change with

no visual effects (including swiping or other animated transition methods) between displays

f) Should a fault be detected or reported with the screen or advertisement, the screen

will be programmed to automatically switch to a blank screen with black background.

Reason. To avoid undue distraction and visual intrusion within the street scene pursuant to Policy EN1/9 - Advertisements of the Bury Unitary Development Plan.

2 (a) No individual advertisements displayed on the LCD panels shall contain moving images, animation, video or full motion images or any images that resemble road signs, traffic lights or traffic signs.

(b) No individual advertisements shall be displayed for duration of less than 10 seconds.

(c) Controls shall be in place to ensure smooth uninterrupted transition of images displayed on the panel.

(d) The display panel shall be fitted with a light sensor, designed to adjust the brightness to changes in ambient light levels.

(e) A mechanism shall be in place so that if the installation breaks down, it defaults to a black screen to avoid any flashing error messages or pixilation.

Reason. To protect the amenity of adjoining occupiers pursuant to policy EN1/9 - Advertisements of the Bury Unitary Development Plan.

3 The Express Consent hereby granted expires 5 years from the date of this decision.

Reason. The development is of a temporary nature only pursuant to Bury Unitary Development Plan Policy EN1/9 - Advertisements.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
MK	12/8/22		