

DELEGATED REPORT

Report by Mark Kilby	Date of report: 12/08/2022	Ref: 68441/FUL
Registration: 12/05/2022	LDFC: 28/07/2022	Expiry Date: 07/07/2022
Site Visit: 09/06/2022	Site Notice: 09/06/2022	Press Date: 07/07/2022
Objections:	Con Area: BURY	Adv Type: CA
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: 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 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 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.

Planning Permission is required because the BT street hubs would serve a dual purpose, for the operators electronics communication network and the purpose of advertising via the illuminated panel. As such they considered not to be permitted development under Part 16 Class A of the General Permitted Development Order.

An application for advertisement consent, 68442, has been submitted which will assess the the use of the Hub to display advertisements.

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

68442 - Advertisement consent for installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks -

Publicity

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

Statutory/Non-Statutory Consultations

Traffic Section - Objection - 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.

Greater Manchester Police - designforsecurity. No objection.

Pre-start Conditions - None.

Unitary Development Plan and Policies

EN1/1	Visual Amenity
EN1/10	Telecommunications
EN1/4	Street Furniture
EN1/5	Crime Prevention
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN2/3	Listed Buildings
EN7/2	Noise Pollution
HT6/1	Pedestrian and Cyclist Movement
HT5/1	Access For Those with Special Needs
CF1/1	Location of New Community Facilities
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.

Policies - Policy EN1/2 - Townscape and Built Design will give favourable consideration to development which do not have an unacceptable effect on the character of an area. factors considered when assessing proposals include appearance, design and relationship to an area, choice and use of materials, access, and use of lighting.

Policy EN1/4 - Street Furniture seeks to ensure the siting and design satisfies considerations which includes meeting the needs including mobility impaired in terms of safety and adequacy, highway safety, pedestrian flow and amenity and appearance in the street scene.

Policy EN1/10 - Telecommunications - In assessing such proposals, regard will be given to factors including operating requirements of available and new telecommunications technology, legal requirements of operators, siting and design and visual and physical impact.

Highway policies HT5/1 - Access for those with Special needs and HT6/1 - Pedestrian and Cyclist movement seeks to ensure proposals consider the needs and accessibility of mobility impaired and those with special needs and ensure pedestrians and cyclists can move around safely.

CF1/1 - Location of New Community Facilities - Proposals for new and improved community facilities will be considered with regard to the following factors:

- impact on residential amenity and the local environment;
- traffic generation and car parking provision;
- the scale and size of the development;
- where applicable, access to shops and other services;
- if the use is intended to serve a local community, or catchment area, the suitability of the chosen location in relation to that community or catchment area;
- accessibility by public and private transport;
- the needs and requirements of the disabled;

It is considered the proposal would comply with the above factors and as such the proposed use and principle is acceptable.

Siting - The proposal would be sited within an existing delineation of street furniture comprising planters, seating, bollards and other stand alone advertising display units. It is considered the space in which the proposal would be sited is large enough so as not to conflict with pedestrian movement in general or those with mobility impairment. Pedestrian movement is predominantly either side of this delineation and space would be retained for pedestrians to cross and re-cross this area without any detrimental increase in pedestrian conflict with the proposed or existing street furniture that would warrant refusal. The proposal would not obstruct the highway.

The proposed Hub would be sited in a position that would not cause a detrimental increase in street furniture causing unacceptable harm to the visual amenity of the street scene when all other elements of the existing street furniture is taken into consideration.

As such the proposal would not conflict with the aims of adopted UDP policies EN1/1 - Visual Amenity, EN1/2 - Townscape and Built Design, EN1/4 - Street Furniture, EN1/10 - Telecommunications, HT5/1 - Access for those with Special needs and HT6/1 - Pedestrian and Cyclist movement.

Use - The proposed hub would be a platform to provide the modern equivalent of a payphone to facilitate telephone calls but would also facilitate other high speed digital infrastructure including public wi-fi, access to public services and information and provide USB chargepoints. It is recognised that such services can deliver social, economic and environmental benefits to the public benefit in terms of it being a community facility. As such the proposal would comply with adopted UDP policy CF1/1 - Location of New Community Facilities

Access - 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.

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 extend beyond its garden setting. As such the proposal would not cause harm to the setting of the listed building and as 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 of the NPPF.

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 the 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 EN2/1 - Character of Conservation Areas, EN2/2 - Conservation Area Control and paragraphs 199 and 200 of the NPPF.

Other issues

Design for Security (DfS) - Recommend that consideration be given to the potential of the unit attracting or increasing incidents of anti-social behaviour and loitering in these high footfall areas. A strategy to disable the units if required in extreme circumstances (e.g. previous examples may include the Manchester riots and some incidents of extreme anti-social behaviour) should also be considered.

The DfS team would also comment that the security of the proposed unit be carefully considered. The proposed unit should be constructed to a robust and adequate standard and should also be securely fixed and vandal-resistant.

The applicant has submitted as part of the application a document - Street Hub Anti-Social Behaviour Plan Version 2 - April 2021. It is considered this document addresses the issues raised by Greater Manchester Police and as such an informative has been added to this effect.

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:

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- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings and documents numbered 001 Revision A, 002 Revision A, 003 Revision A, BT Street Hub Proposed Renders 2021, Street Hub Anti-Social Behaviour Plan Version 2 - April 2021, Street Hub Noise Management Plan Version 2 - October 2021 and the development shall not be carried out operated except in accordance with the drawings and documents hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.
- 3 The Communication apparatus hereby approved shall not use voice activated or hands free technology unless and until a Noise Management Plan (NMP) detailing the control measures including volume and sound levels have been submitted and approved by the LPA. The agreed levels set out within the NMP shall thereafter be permanently maintained. A noise assessment and noise management plan shall be submitted to determine the noise level of the speaker associated with the equipment and agreed by the Local Planning Authority. Once the noise levels have been agreed, the levels will be included within the NMP and shall be complied with thereafter. Once the NMP has been agreed and the unit installed, a verification report will be required to include sound testing to confirm compliance with agreed noise limit.
Reason. In the interests of the occupiers of nearby premises and users of the surrounding area pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design, EN7/2 - Noise Pollution.

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