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4 October 2024

The Planning Inspectorate
Temple Quay House
The Square
Temple Quay
Bristol BS1 6PN

Our Ref: A02528
LPA Ref: 70776
70777

Dear Sir/Madam

Town and Country Planning Act 1990
Town and Country Planning (Control of Advertisements)
(England) Regulations 2007

Re: Installation of advertised communication hub unit with defibrillator
Site: Pavement outside 4 Clerk Street, Bury BL9 0PN

This letter accompanies joint appeals under section 78 of the above Act (as amended) and Regulation 17 of the above Regulations against the decision of Bury Council as Local Planning Authority (LPA) to refuse planning permission (PP) and advertisement consent (AC) in respect of the above development.

The proposal is outlined in the application covering letter and seeks approval to install a single Communication Hub with the latest digital communication technology at the appeal site location. The proposal aims to provide an efficient, reliable and free to use public service, funded by the advertising revenue from the integral display. The proposal concerns the decisions of the Council to refuse PP and AC, for the proposed Communication Hub in the identified location. To avoid unnecessary duplication the nature of the proposal and the details on the Hub Unit are not repeated here as it is covered in some detail in the application submission.

JCDecaux UK Limited

Registered Office: 991 Great West Road – Brentford – Middlesex – TW8 9DN
Registered in England and Wales Registration Number: 1679670
Telephone : +44 (0)20 8326 7777
Fax: +44 (0)20 8326 7775 www.jcdecaux.com

1. Appeal Background

The proposal is a hybrid development for a communication apparatus and advertisement combined on a single structure as detailed within the application documentation. As such, the development requires both planning permission and advertisement consent, which were determined under separated decision notices, conjoined in one proposal. The applications were submitted as one through the Planning Portal on the 17th of June 2024.

Throughout the application timeline the proposal received a single public objection regarding the Communication Hub's perceived impact on the operation of the area, specifically in regard to pedestrian flows in the area and the use of the spaces for temporary events^A. The application received a recommendation for refusal from the Traffic Section in regard to the perceived impact on pedestrian flows to the Rock, and additional street clutter^B. The Highways noted that there was no agreement with the authority for the installation of the proposed Communication Hub. The agent submitted the proposal on behalf of Infocus Communication Networks (The Applicant), a registered statutory undertaker responsible for installations on publicly maintained land. Given this status, there is no legal requirement for us to enter into any agreement with the Highway Authority for installations on adopted unregistered land.

The agent was informed of the objection following a query regarding the application's progress, during which the Case Officer advised withdrawing the application to seek an alternative location^C. However, based on the Highways Authority's comments, it was determined that any future application would likely face similar refusal. Therefore, the decision was made to let the application proceed and be determined under delegated powers.

The application was subsequently refused on the 9th of August 2024. The reasons for refusing PP and AC are extracted below.

A JCD1 - A02528 - DR

B JCD2 - Highways Comment

C JCD3 - Application Update Query

Planning Permission - Reasons for Refusal

1. The proposed development by reason of its siting and position within The Rock would introduce a piece of street furniture which would interrupt the visual rhythm and pattern of the existing street furniture and layout of the street scene, causing an unnecessary obstruction in the area which would be seriously detrimental to the visual amenity and appearance of the street scene and free pedestrian movement. The proposed development would therefore be contrary to Policies EN1/2, EN1/4, EN5/1, EN1/9 and JP-C5 and JP-C6.
2. The proposal would result in an unnecessary obstruction of the existing adopted highway and the creation of additional street clutter for an installation that primarily consists of an advertisement screen, 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 The Rock and contrary to the active travel aspirations of the Council. The proposed development would therefore be contrary to Policies EN1/2, EN1/4, EN5/1, EN1/9 and JP-C5 and JP-C6.
3. The application and submitted plans contain insufficient information to properly assess the proposal in relation to a wider strategy for the need for and provision of defibrillators throughout the Borough. The proposed development would therefore be contrary to Policy EN1/9.

Advertisement Consent - Reasons for Refusal

1. The proposed development by reason of its siting and position within The Rock would introduce a piece of street clutter which would interrupt the visual rhythm and pattern of the existing street furniture and layout of the streetscene and would be seriously detrimental to the visual amenity and appearance of the streetscene. The proposed development would therefore be contrary to UDP Policy EN1/9.
2. The proposal would result in an unnecessary obstruction of the existing adopted highway and the creation of additional street clutter for an installation that primarily consists of an advertisement screen, 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 The Rock and contrary to the active travel aspirations of the Council. The proposed development would therefore be contrary to Policy EN1/9.

3. The application and submitted plans contain insufficient information to properly assess the proposal in relation to a wider strategy for the need for and provision of defibrillators throughout the Borough. The proposed development would therefore be contrary to Policy EN1/9.

Various Policies are cited in support of the decisions, including the NPPF and the Bury Unitary Development Plan documents including Policies EN1, EN1/2, EN1/9, EN1/10, EN1/4, HT5/1, CF1/1, HT6/1, S1/1, JP-C2. Notwithstanding the policies mentioned and in light of the terms of the 2007 Regulations, the main issues relating to the advertising appeals are the effect of the proposals on the character and appearance of the street and on the operation of the street scene; and for the planning appeal, the effect of the Hub unit on the character and appearance of the area.

1. Grounds of Appeal

The Appellant considers that there are reasonable grounds to appeal the LPA's decision in this case, which are as follows:

The council raises concerns about pedestrian safety and the obstruction of desire lines due to the installation of the communication hub on the pedestrianised, open, adopted highway on approach to the Rock Shopping Complex. However, the proposed placement of the hub has been strategically chosen to ensure that it does not impede pedestrian flow or compromise safety being aligned with the existing street furniture and out of the direct path of those traveling from north to south and east to west. The siting allows for clear sightlines and unobstructed movement, complying with the principles of safe and efficient urban design.

Moreover, while the council refers to the hub as an unnecessary piece of street clutter, it must be recognised that communication infrastructure is a crucial element of modern urban spaces. The installation offers essential services, including digital information, connectivity, and potentially life-saving technology (such as defibrillators). These functions are integral to improving public access to important information and enhancing the overall user experience of the town centre, aligning with active travel and public realm aspirations.

The refusal decision points to an alleged lack of information regarding the broader strategy for defibrillator provision throughout the borough. However, this should not serve as a basis for refusal. The provision of defibrillators is a clear public benefit that

can save lives in emergency situations. The lack of a wider strategy does not negate the importance of their inclusion in the proposed development. The council's focus on this issue should not overshadow the significant positive impact that the communication hub will provide. There was no attempt from the Bury Council to obtain further information regarding the defibrillator provision during the application timeline.

According to the National Planning Policy Framework (NPPF), developments that cause "less than substantial harm" to the environment or streetscape should be weighed against the public benefits of the proposal. In this case, the hub offers substantial benefits including improved digital connectivity, emergency health provisions (such as defibrillators), and access to information that supports both locals and visitors to this area of Bury. These public benefits clearly outweigh the perceived visual or spatial impacts cited by the council.

Conclusion

The grounds of appeal above are to be read in conjunction with the application submission relating to this appeal site proposal. The LPA's reasons for refusing planning permission and advertisement consent assert that the proposed advertisement displays would unacceptably harm the amenity of the locality and obstruct pedestrian movements the appellant respectfully disagrees.

In conclusion, the planning application for the Communications Hub has been meticulously developed to address concerns regarding amenity, public safety, and visual impact. By adhering to relevant policies and industry standards, we ensure that the proposed installation looks to enhance the local environment while fulfilling its intended purpose as a valuable communication asset for the community.

The Appellant contends that the installation of a communication Hub unit would not be detrimental to the visual amenity of the locality, or the operation of the streetscene on Clerk Street. The Inspector is requested to uphold this appeal and to grant planning permission and advertisement consent as applied for.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Stephen Herraghty', written in a cursive style.

Stephen Herraghty AssocRTPI