

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 27/03/2024	Ref: 70427/FUL
Registration: 05/02/2024	LDfC: 05/03/2024	Expiry Date: 01/04/2024
Site Visit: 21/02/2024	Site Notice: 21/02/2024	Press Date: 15/02/2024
Objections: 0	Con Area: BURY	Adv Type: CAAF
Reason for Delay: N/A		EIA: NA Dec Level: DEL Stat Class: MIOT

Proposal: Installation of 1no. multifunctional communication hub including defibrillator and advertisement display

Location: Pavement outside 1 Union Street, Bury, BL9 0NY

Description

The site relates to an area of pavement on Union Street, between the Royal Bank of Scotland and Tim Hortons, on a main pedestrian route into the Mill Gate Shopping Centre. The site is located immediately adjacent to the Bury Town Centre Conservation Area and a non-designated heritage asset (the Royal Bank of Scotland). The nearest listed buildings are 60-70m from the site at 1 The Rock (Grade II) and the Parish Church of St. Mary (Grade I). However, the buildings are not in the line of site from the application site. The site is bounded by commercial uses within Bury town centre.

Planning permission is sought for the installation of 1no. multifunctional communication hub including a defibrillator and an advertisement display. The proposed hub would be 2630mm high x 1338 mm wide and 317mm deep with an integrated advertisement display on one side and a touch screen and defibrillator on the opposing side. A protective canopy is proposed on the touch screen elevation 2123mm above ground level and projecting a maximum of 600mm.

The unit would provide a number a functions and services including free calls to landlines, a range of additional connective functions that include free wi-fi, touch screen wayfinding, direct access to local web pages, publicly accessible defibrillator and device charging capabilities.

Relevant Planning History

N/A

Publicity

Press Notice 15/02/2024

Site Notice 21/02/2024

No representations received.

Statutory/Non-Statutory Consultations

Traffic Section: Objection.

The proposal would result in the unnecessary obstruction of the existing adopted highway and one of the emergency routes to the Mill Gate Shopping Centre and create additional street clutter. The development would therefore be detrimental to pedestrian safety, pedestrian desire lines and contrary to active travel aspirations.

Greater Manchester Police - designforsecurity: No objection.

Conservation Officer: The proposal would not preserve or enhance the setting, appearance and character of the conservation area or the non-designation heritage asset.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EN1	Built Environment
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN2	Conservation and Listed Buildings
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN1/9	Advertisements
EN1/10	Telecommunications
EN1/4	Street Furniture
HT5/1	Access For Those with Special Needs
CF1/1	Location of New Community Facilities
HT6/1	Pedestrian and Cyclist Movement
NPPF	National Planning Policy Framework
PFE	Places for Everyone

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, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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.

ASSESSMENT

Places for Everyone

The Places for Everyone Joint Development Plan Document (PfE) is a joint plan covering nine of the ten Greater Manchester districts, including Bury, and is intended to provide the overarching framework to strategically manage growth across the boroughs.

All nine Councils adopted PfE with effect from 21 March 2024 which means that the Plan is now part of the statutory development plan for Bury and holds full weight in regard to planning applications. The principle of the proposal does not give rise to any conflict with PfE policies.

Policy JP-C2 - Digital connectivity supports the provision of affordable high quality, digital infrastructure. The proposed development would accord with this policy.

Policy Context

As the site is located within Bury Town Centre Conservation Area it is necessary to consider the proposal in terms of UDP Policies EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control that seek to preserve and enhance the special character or appearance of an area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in the exercise of their planning functions to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Paragraph 205 of the National Planning Policy Framework (NPPF) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 208 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

40 The Rock is located to the immediate south-west of the site and is considered to be non-designated heritage asset.

Paragraph 209 of the NPPF states the effect of an application on the significance of a

non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Policy EN1/1 states that development will not be permitted where proposals would have a detrimental effect on public views of prominent or important buildings, especially those in areas of architectural or historic interest. This is further supported by Policy EN1/2 that seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area.

Policy EN1/4 seeks to ensure the siting and design of street furniture 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. In terms of telecommunication installations Policy EN1/10 confirms 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.

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.

CF1/1 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;

In addition to the policies set out above 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.

Principle (Use)

The Hub Unit, in addition to free calls to landlines, offers a range of additional connective functions that include free Wi-Fi, a 32-inch touch screen to enable wayfinding, direct access to local webpages, a publicly accessible defibrillator and both USB and wireless device charging capabilities. The communication apparatus includes a telephony element together with an advertised face to the rear. 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.

Policy CF1/1 however confirms that if the use is intended to serve a local community, the suitability of the chosen location in relation to that community needs to be considered. Whilst acknowledged that the installation would deliver a number of public benefits, 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

It is noted that the advertisement function would provide some revenue to support the provision and maintenance of the equipment, however other defibrillators have been sited

within the borough that have not required a large advertisement display, to cross subsidise the public benefits. As such, it is considered that the proposal would fail to comply with UDP Policy CF1/1.

Impact on Conservation Area and Visual Amenity

The Town Centre Conservation Area Appraisal confirms that the conservation area encloses the historic core of the town and incorporates the best of its architectural heritage, with a high concentration of statutorily listed buildings. The modern form of the area results from the mix of commercial and civic buildings, largely dating from the 19th century, arranged around and linked by public open spaces.

Paragraph 7.2 of this document, confirms that new commercial advertising should not consist of the modern plastic, back-lit fascias that have become the norm in The Rock and Bolton Street.

This proposed site is located on an uncluttered area of pavement flanked by (at the north-east and south-east) by contemporary and utilitarian commercial premises. However, at the immediate south-west, the site is flanked by a non-designated heritage asset at 40 The Rock, which is a three storey yellow sandstone ashlar and red brick with a mansard roof in blue slate. This building forms the eastern boundary of the conservation area.

It is confirmed by the applicant within their covering letter that this is an open and 9.1m wide area of pavement and the Council agrees with this assessment of the existing street scene. The proposed hub would be sited in an isolated position (presently occupied by a single refuse bin that would be resited) that would cause a detrimental increase in street furniture causing unacceptable harm to the visual amenity of the street scene. It would represent an incongruous structure in its isolated position and would conflict with desired sight lines.

The proposed hub and associated advertisement would be in such a position within the conservation area that it would compromise views along Union Street providing an incongruous contemporising feature within the setting of the conservation area and the NDHA. The hub, and protective hood are at such a scale that they would introduce a large and alien feature into the currently uncluttered area of streetscene. As such, it would neither preserve or enhance the character or appearance of the conservation area representing less than substantial harm.

Defibrillators in the public realm would represent a public benefit, however their siting are not solely reliant on the proposed hubs and could be sited appropriately elsewhere within the conservation area such as on the side of buildings or boundary enclosures. As such the public benefit would not outweigh the harm identified to the character and appearance of the conservation area.

The proposal would also harm the setting of a non-designated heritage asset and would, for the same reason as set out above, cause harm to its significance. As such, the harm identified would represent less than substantial harm which would not be outweighed by the public benefit identified the same reason as given above.

The proposal would therefore be contrary to UDP Policies EN1/4, EN1/10, EN1/1, EN1/2, EN2/1, EN2/2, EN2/3 and the NPPF.

In addition to the above, it should be noted that no Heritage Statement or assessment has been submitted with the application. The covering letter does not acknowledge that the location of the site is immediately adjacent to and within the setting of the Bury Town Centre Conservation Area and the location of a NDHA (and therefore does not identify the significance of either, or identify any potential harm the proposed siting, and design of the hub may have on the setting of these assets or whether or not the proposal would preserve or enhance the Conservation Area.

Highways and Pedestrian Safety

The applicant highlights that the site is in an area of open pavement and that pedestrians would be allowed sufficient room to continue their most efficient walking route and that the remaining footpath width is wide enough on either side to accommodate the introduction of a Communication Hub without compromising pedestrian movement, even at busy times.

An information board and fingerpost sign are currently located around 25m north-west of the site, which directs people to the key areas/ attractions within the Town Centre, and therefore already provides the wayfinding information that the hub proposes.

The applicant considers that the proposal would not present an obstruction to pedestrian movements and that adequate space would remain to either side. However, it would be sited centrally within an area of open pavement on a busy pedestrian thoroughfare. It is considered that the position in which the proposal would be sited would conflict with pedestrian movement in general or those with mobility impairment, especially when consideration is given to the potential congregation of pedestrians created by the use of the associated Hub.

It would be sited in an isolated position on an open area of pavement and would constitute an obstruction to pedestrian flow, to the detriment of highway safety.

CONCLUSION

It has been demonstrated in the above assessment that the proposal would cause less than substantial harm to the setting and appearance of the Bury Town Centre Conservation Area and a Non-Designated Heritage Asset, which would not be outweighed by any public benefit. Furthermore, the proposal would cause an unnecessary obstruction of the adopted highway and the creation of additional street clutter, which would be detrimental to pedestrian safety,

The proposal would therefore be contrary to the above policies and section 16 of the National Planning Policy Framework.

Given such circumstances and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Framework, planning permission should be refused.

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

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development, due to the scale, siting, materials and position would result in the introduction of incongruous street furniture that would be detrimental to the visual amenities of the area and the appearance of the streetscene. The proposed hub would neither preserve nor enhance the setting, appearance or character of the immediately adjacent Bury Town Centre Conservation Area or the

Non-Designated Heritage Asset. The proposal therefore conflicts with the following policies of the Unitary Development Plan :

EN1/1 - Visual Amenity

EN1/2 - Townscape and Built Design

EN2/1 - Character of Conservation Areas

EN2/2 - Conservation Area Control

EN1/10 - Telecommunications

EN1/4 - Street Furniture

Bury Town Centre Conservation Area Appraisal and the National Planning Policy Framework.

- 2 The application and submitted plans fail to adequately assess the impacts of the proposal on the significance of the identified Non-designated Heritage Asset and Conservation Area through the submission of a Heritage Assessment. The application and submitted plans therefore contain insufficient information to enable them to be properly assessed in relation to the impact of the proposal on the Non-Designated Heritage Asset and Bury Town Centre Conservation Area. The proposal therefore conflicts with the following policies of the Unitary Development Plan:

EN1/2 - Townscape and Built Design

EN2/1 - Character of Conservation Areas

EN2/2 - Conservation Area Control

Bury Town Centre Conservation Area Appraisal and the National Planning Policy Framework.

- 3 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, 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 and contrary to the active travel aspirations of the Council. The proposal therefore conflicts with the following policies of the Unitary Development Plan

EN1/2 - Townscape and Built Design

EN1/4 - Street Furniture

EN1/10 - Telecommunications

HT5/1 - Access For Those with Special Needs

HT6/1 - Pedestrian and Cyclist Movement

and the National Planning Policy Framework.

- 4 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 proposal therefore conflicts with the following policy of the Unitary Development Plan CF1/1 - Location of New Community Facilities.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DSC	27/03/2024	DM	27/03/2024