

**Town & Country Planning Act 1990
Section 78 Planning Appeal**

Written Statement

**APPEAL REF No. APP/T4210/W/22/3307217
LA REF No: 68449**

**APPEAL REF No. APP/T4210/H/22/3307218
LA REF No: 68450**

Pavement Opposite Frankie and Benny's, 15-17 The Rock, Bury, BL9 0JY

BURY COUNCIL

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1. Matters to note

For reference purposes -

Appeal A – Planning permission; and

Appeal B – Consent to Display Advertisements.

The Inspector is respectfully directed to the LPA's Officer Reports and reasons for refusal of the Planning Application and Consent to Display Advertisements applications which form part of the LPA's Statement of Case.

In addition, the LPA would take this opportunity to comment on the Appellant's Grounds of Appeal. This document is therefore submitted as the Council's Statement of Case as a combined response for both the appeal against the refusal of planning permission (Appeal A) and appeal against the refusal of advertisement consent (Appeal B).

2. The Council's Case and Comments on the Appellant's Grounds of Appeal

The LPA note from their submission that the Appellant have provided a detailed account in support of the communication services and facilities which would be provided by a Street Hub.

The crux of the issue relates to the siting, position and appearance of the proposed Street Hub detailed in the LPA's Officer Report and the reasons for refusal; that is the additional street clutter and visual intrusion and the obstruction of the public highway to the detriment of pedestrian safety at this specific location.

At page 4, the Appellant acknowledges the proposed Street Hub may have some negative impacts.

At page 5, the Appellant states that the proposal would be located close to the locally listed station building. This is factually incorrect. There is no locally listed station building nearby.

At page 6 - The Bury Local Plan is currently under preparation. It has not been adopted and therefore cannot be considered material to the Appellant's Case.

At page 12 and page 15, the Appellant states that the street would be de-cluttered and that two existing payphones would be removed. The two payphones are not in the vicinity and indeed are not even in Bury Town Centre. The Street Hub would therefore not be a direct or like-for-like replacement and there would be no removal of other street furniture in the vicinity. The Appellant cannot reasonably claim the proposed development would visibly reduce street clutter overall.

The Street Hub would not be located in the area where it is proposed to remove the 2 payphones and therefore would not serve the local community where the phone boxes are currently situated.

The LPA therefore contend the proposed Street Hub would unnecessarily add to the street furniture in this clutter free paved throughroute. The impacts of the proposed development would therefore be negative and there would be no benefit to the visual amenity of the area or the local community outside the town centre.

At page 12, the Appellant states that there would be adequate space for the siting of the Street Hub within the pedestrianised area. On the contrary, the route along this pedestrian walkway, known as Rock Place is devoid of any street furniture for a reason – to maintain a free flow of unobstructed pedestrian access and to retain a visually open route through this area. The proposed Street Hub would be positioned such that it would undoubtedly introduce a structure in the pathway of pedestrians, causing an obstruction. The surrounding streetscape provides an attractive amenity area for shoppers and those visiting the nearby venues. Introducing a Street Hub with 2- sided digital screens within a central and well used area would detract from the visual amenity of the area and considered discordant and harmful to the appearance of the area. Indeed, at page 16, the Appellant states that the advertising screens are a prominent feature.

At page 17, the Appellant states a significant amount of existing street furniture would be removed. This would not be the case. There would be no removal of street furniture.

Citing appeal decisions (appendices K and I) which have been made in other parts of the country are irrelevant to this case as each site and application should be assessed on their own merits.

3 Conclusion

In conclusion, the LPA contends that –

- The Appellant's Grounds of Appeal is largely generic and does not specifically relate to this appeal site.
- Locating the Hub in the position proposed would place an obstruction in the path of pedestrians where there is currently none and obstruct freely flowing pedestrian movement.
- The position of the proposed Hub would introduce a discordant and visually intrusive feature which would be detrimental to the amenity of this well visited area.
- The Hub would not replace two phone boxes in the area and there would be no removal of any other street furniture.
- The case for the LPA is clearly considered in detail in the LPA's officer report and the reasons for refusal.

The LPA therefore respectfully requests that the appeal be dismissed.

4. Suggested conditions/matters in the event the appeal is allowed.

Full Planning

- Commencement of development within 3 years
- To be carried out in accordance with the approved plans
- Surface materials to match the existing adjacent surface materials

- The Street Hub hereby approved to be removed from the land on which it is situated within three months of the date it ceases to be used for telecommunications purposes and the land re-instated to its former condition within that period.

Consent to Display Advertisements

- No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road traffic Regulation Act 1984.
- Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.
- 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). The display panel shall be fitted with a light sensor, designed to adjust the brightness to changes in ambient light levels. In the event of breakdown or malfunction the screen will automatically switch off.
- 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.
- The minimum display time for each piece of content on the digital display screens shall be 10 seconds.
- 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
- 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 and 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.
- The Express Consent hereby granted expires 5 years from the date of this decision.