



Appeal Decisions

Site visit made on 24 July 2024

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2024

Appeal A Ref: APP/T4210/W/24/3343994

Pavement o/s Mill Gate Shopping Centre, Union Street, Bury BL9 0NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by In Focus Ltd against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70427.
 - The development proposed is the installation of a multifunctional communication hub including a defibrillator and advertisement display, as illustrated in the attached documentation.
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Appeal B Ref: APP/T4210/H/24/3343995

Pavement o/s Mill Gate Shopping Centre, Union Street, Bury BL9 0NY

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by In Focus Ltd against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70444.
 - The development proposed is the installation of a multifunctional communication hub including a defibrillator and advertisement display, as illustrated in the attached documentation.
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Decision

1. Appeal A and B are dismissed.

Preliminary Matters

2. The two appeals are for related proposals on the same site. Appeal A concerns the refusal of planning permission to install a multi-functional communication hub. Appeal B concerns the refusal of express consent to display advertisements, integrated into the hub. I have considered each appeal proposal on its merits, however, as they raise similar issues, I have combined both decisions in a single decision letter.
3. The Places for Everyone Joint Development Plan (PfE) was adopted in March 2024 by nine greater Manchester authorities, including Bury Metropolitan Borough Council. PfE policies JP-P1 and JP-P2 replace policies EN1/1 and EN2 respectively of the Bury Unitary Development Plan (1997) (UDP) referred to in the Council's decision in respect of Appeal A. The appeal was submitted after the adoption of the PfE and therefore the appellant has had an opportunity to comment on this change in policy.

4. The Council has drawn my attention to UDP Policy EN1/9 in the reasons for refusal for Appeal B, and I have taken it into account as a material consideration. However, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the National Planning Policy Framework (the Framework) makes it clear that control of advertisements may only be exercised in the interest of amenity and public safety. Consequently, UDP Policy EN1/9 has not itself been decisive in my determination of Appeal B.

Main Issues

5. The main issues in respect of Appeal A are the effect of the proposal on:
 - the character and appearance of the streetscene, the Bury Town Centre Conservation Area and No.40 The Rock, a non-designated heritage asset.
 - pedestrian safety, and the active travel aspirations of the Council.
 - the wider strategy for the need for and provision of defibrillators throughout the Borough.
6. The main issue in respect of Appeal B is the effect of the proposed advertisement on visual amenity and public safety.

Reasons

Character and appearance – both appeals

7. The appeal site is a relatively wide pedestrianised area located on a short length of Union Street between the northern entrance of the Mill Gate Shopping Centre and The Rock. It falls just outside the Bury Town Centre Conservation Area (the CA); the boundary running the length of the south west side of Union Street. Union Street is characterised by commercial units on either side and I observed that save a refuse bin and two bollards (at the junction with The Rock), this part of Union Street is free of street furniture, resulting in a spacious and welcoming pedestrian environment.
8. It is proposed to relocate the existing refuse bin closer to the entrance of the shopping centre and to install a freestanding multi-functional communication hub, providing a touch screen and defibrillator on one side and an LCD advertisement screen on the other side. The hub would measure around 2.6m in height and 1.3m wide and would be set back around 12.8m from the front building line of commercial premises fronting The Rock. It would be located in a broadly central position off a busy section of The Rock which accommodates significantly more street furniture than Union Street, including a line of digital advertisement panels, and an information panel with finger post signage. Given its proposed location in a welcome, open and currently uncluttered area, the proposed hub would appear an isolated and visually dominant feature in the streetscene.
9. Furthermore, the width and height of the proposed communication hub, combined with its siting across the pedestrian area, means it would partially block the clear sight lines and intervisibility between the Mill Gate Shopping Centre and The Rock to the detriment of the visual amenity of the streetscene.

10. As described above, the appeal site falls outside the CA, which is broadly located to the west, covering the historic core of central Bury focusing around the junction of Market Place, Bolton Street, Silver Street and The Rock, and includes No.30 The Rock (the RBS building) on the south-west side of Union Street. The special interest and significance of the CA is derived, in part, from its development as a medieval market town and its groupings of Victorian and Edwardian civic and commercial buildings, arranged around, and linked by, public spaces.
11. The CA is best appreciated in this location when viewed from the junction of Union Street and The Rock, looking west toward Gutter End. In this busy pedestrian location, there is a proliferation of street furniture, including telephone kiosks, bike stands, refuse bins, the information panel and an existing digital advertisement panel (offset slightly from the junction). The proposed communication hub would be visible from this location but would be viewed in the context of the existing street furniture and would not have a marked contemporising effect. Despite the absence of a full Heritage Assessment, I find it would not substantially affect the setting of the CA, thereby preserving its character and appearance.
12. The RBS building, which returns the corner of Union Street and The Rock, is a large, prominent three-storey building built in yellow sandstone ashlar and red brick, with a set back blue slate mansard. It has been identified by the Council as a non-designated heritage asset and forms the eastern boundary of the CA. The RBS building is however experienced in the context of adjoining more contemporary buildings, notably the entrance feature of the Mill Gate Shopping Centre and the Tim Horton building opposite, and existing street furniture on The Rock. I do not therefore find that the proposed communication hub would affect the setting of this non-designated heritage asset, to such a degree to result in harm.
13. Despite my conclusions on its effect on the CA and non-designated heritage asset, I nonetheless conclude on the first main issue that the proposal would cause significant harm to the character and appearance of the streetscene and visual amenity. In respect of Appeal A, it would therefore be contrary to PpE policy JP-P1 and UDP policies EN1/2, EN1/4 and EN1/10. These policies, amongst other things, seek to ensure that new development, including street furniture, is suitably located and well-designed, respects and would not have an unacceptable adverse effect on the particular character and townscape.
14. With regards to Appeal B, the proposal would have an unacceptable effect on the amenity of the area. The policies of the development plan have been considered as far as they are material, and in this respect, the proposal would also conflict with the above identified policies and UDP Policy EN1/9 which requires advertisements to have regard to the characteristics of the local neighbourhood.

Public safety – both appeals

15. Whilst the proposed communication hub would be sited broadly centrally within a busy pedestrianised area, its limited width (only around 1.3m) means that ample space would be retained either side. This would enable pedestrians to pass around the hub without significantly deviating from their route, thereby maintaining existing desire lines. Even in the event of pedestrians congregating to use the proposed hub, I am satisfied that it would not present a particular

obstruction to pedestrian flow or movement, including those with mobility impairment, such that it would be to the detriment of safety.

16. I note the consultation response from the Council's Head of Engineering raised concerns that the proposal would be without agreement of the Highways Authority for the placement of such equipment, and that there would be a conflict with the active travel aspirations of the Council. The appellant's evidence is that they are statutory undertakers on the unregistered adopted highway and I have no evidence to the contrary. In any event, in respect of Appeal B, a standard condition of the Regulations is that 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. I have been provided with no information regarding the active travel aspirations of the Council, so I am unable to conclude on this point.
17. I therefore conclude on the second main issue that, in respect of both Appeal A and B, there would be no harm to public safety. Consequently, in respect of Appeal A, there would be no conflict with UDP policies HT6/1, HT5/1 and EN1/4 which together seek to ensure that development, including street furniture, does not interrupt main pedestrian flows and that pedestrians are able to move safely, and encourages satisfactory access to pedestrian areas for those with special needs. I do not find the provisions of UDP Policy EN1/10 relevant to this issue.
18. Finally, the proposal would not conflict with the guidance at paragraph 114 of the Framework that developments ensure that safe and suitable access can be achieved for all users.

Strategy for defibrillators – Appeal A

19. The Council raise an issue that the application and submitted plans contained insufficient information to properly assess the proposal in relation to a wider strategy for the need and provision of defibrillators throughout the Borough. I have been provided no information in respect of the Council's wider strategy, but I note that the appellant is working in partnership with Community Heartbeat Trust, a registered charity that promotes greater access to defibrillators in public spaces.
20. Further, irrespective of the absence of an assessment against a strategy for provision, the benefits of early use of a defibrillator in respect of increasing the chances of surviving a heart attack, are well known. In isolation, I do not therefore find any planning harm in providing an additional defibrillator in this location; to the contrary it is a benefit of the proposal. Consequently, in itself, the proposed defibrillator does not conflict with the objectives of UDP Policy CF1/1 which supports the provision of new and improved community facilities in appropriate locations.

Other Matters

21. I have had regard to the public benefits of the proposed communication hub, which in addition to a defibrillator, includes free phone calls to landlines and charities, community messaging and rapid connection to emergency services. The hub would also be powered by green electricity and lit using high-capacity batteries, powered by solar energy.

22. I also note that advertising plays an important role in a diverse and vibrant market economic, and that reliable communications is essential for economic growth and social well-being. I do not question the need for such communication systems, but I am not persuaded that the delivery of these is dependent on the scheme before me. Consequently, the public benefits identified only weigh moderately in favour of the proposals and do not outweigh the harm that I have identified.

Conclusion

Appeal A

23. The proposal would have an acceptable effect on pedestrian safety and defibrillator provision, but this does not outweigh the harm to character and appearance that has been identified to the streetscene. The appeal is therefore dismissed.

Appeal B

24. The proposal would be acceptable in terms of public safety but this does not outweigh the harmful effect it would have on visual amenity. The appeal is therefore dismissed.

R. Jones

INSPECTOR