

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	28 March 2017
SUBJECT:	PLANNING APPEALS
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - Lodged - Determined
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

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Planning Appeals Lodged



Application No.: 60866 /PMBP

Appeal lodged: 28/02/2017

Decision level: DEL

Written Representations

Recommended Decision: Prior Approval Required and

Applicant: Mr Andrew Winstanley

Locatio Lower Dickfield Farm, Lower Dickfield, Helmshore Road, Ramsbottom, Bury, BL8 4PD

Proposal: Prior approval for the proposed change of 2 no. agricultural buildings to 2 no. dwellinghouses (Class C3) under part 3 class Q(a) of general permitted development order

Total Number of Appeals Lodged: 1

Planning Appeals Decided



Application No.: 60359 /ADV **Appeal Decision:** Allowed
Date: 01/03/2017
Decision level: DEL Written Representations
Recommended Decision: Refuse
Applicant: Insite Poster Properties Ltd
Locatio Gable of 37 Walmersley Road, Bury, BL9 5AE
Proposal: Replacement of existing 48 sheet advertising display with 48 sheet LED display

Application No.: 60445 /FUL **Appeal Decision:** Dismissed
Date: 28/02/2017
Decision level: DEL Written Representations
Recommended Decision: Refuse
Applicant: Mrs N Thurstans Ferreira
Locatio The Gatehouse, Bridgefield Drive, Bury, BL9 7PE
Proposal: Erection of boundary fence

Total Number of Appeals Decided: 2

Appeal Decision

Site visit made on 7 February 2017

by Louise Nurser BA (Hons) Dip UP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 March 2017

Appeal Ref: APP/T4210/Z/16/3161424

Gable of 37 Walmersley Road, Bury BL9 5AE

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Insite Poster Properties Ltd against the decision of Bury Metropolitan Borough Council.
 - The application Ref 60359, dated 11 July 2016, was refused by notice dated 2 September 2016.
 - The advertisement proposed is replacement of existing 48 sheet advertising display with 48 sheet LED display.
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Decision

1. The appeal is allowed and express consent is granted for the display of the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:-
 - 1) The intensity of the illumination of the advertisement permitted by this consent shall be no greater than 300 candela per square metre.
 - 2) The minimum display time for each advertisement shall be 10 seconds, the use of message sequencing for the same product is prohibited and the advertisements shall not include features/equipment which would allow interactive messages/advertisements to be displayed.
 - 3) The advertisement shall be static with no special effects (including noise, smell, smoke, animation, flashing, scrolling, three dimensional, intermittent or video elements) of any kind during the time that any message is displayed.
 - 4) The interval between successive displays shall be instantaneous (0.1 seconds or less), the complete screen shall change, there shall be no visual effects (including fading, swiping or other animated transition methods) between successive displays and the display will include a mechanism to freeze the image in the event of a malfunction.

Main issue

2. No issues have been raised in relation to public safety in this appeal. Therefore the main issue in this case is the effect of the 48 sheet LED display on the character and appearance of the host property and wider area.
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Reasons

3. The National Planning Policy Framework states that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
4. The appeal site is located on the gable end of a group of shops and businesses designated as a Local Centre on Walmersley Road (A56). The road layout and the substantial area of grass and landscaping to the front of the Freedom Church provide an uninterrupted view of the existing 48 sheet poster which the appeal proposal would replace. The A56 is identified within saved policy EN1/9 of the Bury Unitary Development Plan adopted 1997 (UDP) as an area in which the Council wishes to improve the quality of development and is a main through route out of the centre of Bury. Both parties agree that the current 48 sheet advertising display benefits from deemed consent, and a 48 sheet poster has been at the site, since, at least 1996. The Council has not sought to serve a discontinuance notice.
5. From my site visit I observed that the site lies to the north of Bury's main retail core. It is separated from The Rock, a new shopping and leisure development, and a significant area of retail warehousing, by a major intersection. As such it is visually separate from the new developments. However, it is visible from the Moorgate junction.
6. The immediate area surrounding the appeal site appears typical of its inner urban location and is predominantly commercial in nature. There is a mix of larger modern purpose built retailing such as a Wickes, a former flat roofed low office block which has been converted to the Freedom Church, older small scale red brick properties housing a variety of commercial enterprises, and the Local Centre of small shop units fronting either side of the A56, many of which appear to require investment.
7. The proposed advertisement would replace an existing back lit 48 sheet poster with a LED display of similar dimensions, albeit it would be around 20 cm deeper. I note that the existing poster takes up more than half of the width and height of the gable wall of the barber shop. The proposed 48 sheet LED display would be less bright at 300 candela (cd) per sqm both during the night and day, compared to the present levels of 600cd. In addition, the actual advertisement would be a static LED display with images that would change electronically rather than stretched vinyl whose content remains in situ until it is manually changed. The Council has not indicated that the type of illumination is problematic in terms of the visual amenity of the area. Conditions can control the illumination, display time and the prevention of special effects.
8. I am aware that the appeal site is highly visible to traffic travelling north out of Bury. However, the improvements delivered by the proposal of lower levels of illumination, and investment in a modern sign would contribute to the long standing aspiration of the Council to improve the quality of the environment along the A56.
9. I have taken into account saved policies EN1/7 and EN1/9 of the UDP. Together, they both seek to protect amenity, and so are material in this case. However, given my conclusion that in the particular circumstances of this case,

the proposal would not substantially harm amenity, the proposal does not conflict with these policies.

Conditions

10. I have imposed the five standard conditions set out within the Regulations. In addition, the appellant has suggested five further conditions, one of which duplicates the standard five year time period. In the interests of amenity, to maintain highway safety and to avoid overt distraction to drivers, these additional conditions are necessary to control the frequency of image changes, the levels of illumination, and to ensure that images are static, with virtually instantaneous changes.

Conclusion

11. For the reasons which are set out above, I allow the appeal and grant express consent subject to conditions.

L. Nurser

INSPECTOR

Appeal Decision

Site visit made on 20 February 2017

by Matthew Birkinshaw BA(Hons) Msc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28th February 2017

Appeal Ref: APP/T4210/D/16/3165634

The Gatehouse, Bridgefield Drive, Bury, BL9 7PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Natalie Thurstans Ferreira against the decision of Bury Metropolitan Borough Council.
 - The application Ref 60445, dated 6 August 2016, was refused by notice dated 19 October 2016.
 - The development proposed is the erection of a boundary fence.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development from the Council's formal decision notice, as this more accurately describes the proposal.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area; and
 - The effect of the proposal on highway safety.

Reasons

Character and Appearance

4. Throughout Bridgefield Drive the majority of properties have low boundary walls, hedges and/or railings. This contributes to the relatively open, suburban character of the street. Where higher boundary fences and walls exist they are predominantly at the side, rather than along the front of properties.
 5. In contrast the appeal proposal would introduce a solid fence measuring roughly 1.8m high along the back edge of the pavement. With the exception of a gap directly in front of the property, the new fence and gates would run the full length of the plot adjacent to Bridgefield Drive. In this location I consider that the height, position and solid design of the fence would result in an unduly prominent and incongruous feature in the streetscene. When viewed in the context of its suburban surroundings such a large boundary feature would be harmfully out of place.
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6. In reaching this view I have taken into account that the fence would provide the appellant with more privacy in her garden, and would help resolve issues of anti-social behaviour associated with the adjacent footpath. It would also provide added security and an enclosed space for the appellant's dog to use. In addition, it is appreciated that applying for planning permission can be an expensive process. However, whilst I empathise with the issues that have been raised, these factors do not justify allowing such a large fence that would be out of place on this part of Bridgefield Drive. Based on the information provided the visual impact of the fence would not be mitigated by amending the design of the gates.
7. I therefore conclude that by reason of its size, position and design the proposal would have an unacceptable adverse effect on the character and appearance of the surrounding area. As a result, it conflicts with *Bury Unitary Development Plan* (UDP) Policy EN1/2 which states that the Council will give favourable consideration to proposals which do not have an unacceptable adverse effect on the townscape of the Borough's settlements. For the same reasons it also conflicts with UDP Policy H2/3 which states that applications for house extensions and alterations will be considered having regard to, amongst other things, the character of a property and the surrounding area. Finally, by failing to respect the character of the streetscene the proposal is also contrary to the Council's guidance on boundary enclosures in *Supplementary Planning Document (SPD) 6: Alterations and Extensions to Residential Properties*.

Highway Safety

8. The submitted plans illustrate that the proposed gates would open outwards and towards the highway. Although this would obstruct the pavement, and gates opening inwards would restrict parking space on the drive, the appellant advises that an internal sliding mechanism could be used instead. This would address some of the Highways Officer's concerns.
9. However, the height, solid design and position of the fence along the back edge of the pavement would restrict the visibility of oncoming traffic and pedestrians in both directions from the junction of the driveway with Bridgefield Drive. Although forward visibility is already partially restricted by existing planting, it would be exacerbated by the appeal proposal. The fence would increase the risk of collisions occurring between vehicles leaving the driveway and occupiers and/or visitors to the neighbouring block of flats.
10. In response the appellant states that there are other fences and walls similar to the appeal proposal nearby, and that overgrown trees and hedges already restrict the use of the pavement for pedestrians on Bridgefield Drive. However, I am required to consider the proposal on its specific merits. Whether or not other fences restrict visibility elsewhere, or overgrown planting limits use of the pavement further along the street, this does not justify allowing an arrangement that would be unsafe.
11. I therefore conclude that by reason of its size, solid design and proximity to the back edge of the pavement the proposal would restrict the visibility of oncoming traffic and pedestrians to the detriment of highway safety. As a result, it conflicts with UDP Policy HT6/1 which states that the Council will seek to ensure that pedestrians and cyclists are able to move safely and conveniently by, amongst other things, eliminating points of conflict with motor vehicles. For the same reasons it also conflicts with UDP Policy H2/3 which,

amongst other things, requires house extensions and alterations to take into account visibility for pedestrians, cyclists and drivers of motor vehicles.

Conclusion

13. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Matthew Birkinshaw

INSPECTOR