

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	31 August 2021
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:-

David Marno, Head of Development Management
 Planning Services, Department for Resources and Regulation,
 3 Knowsley Place ,Bury BL9 0EJ

Tel: 0161 253 5291

Email: d.marno@bury.gov.uk

**Planning Appeals Decided
between 19/07/2021 and 22/08/2021**



Application No.: 66193/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr & Mrs F Morpeth

Location: 21 Greenmount Drive, Tottington, Bury, BL8 4HA

Proposal: Residential development of 2 no. detached dwellings

Appeal Decision: Dismissed

Date: 02/08/2021

Appeal type: Written Representations

Application No.: 66653/ADV

Decision level: DEL

Recommended Decision: Refuse

Applicant: Clear Channel

Location: Al Masood Superstore, Rochdale Road, Bury, BL9 7HH

Proposal: Installation of D-Poster display (6m x 3m) to flank wall

Appeal Decision: Dismissed

Date: 19/08/2021

Appeal type: Written Representations



Appeal Decision

Site Visit made on 13 July 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 2 August 2021

Appeal Ref: APP/T4210/W/21/3270929

21 Greenmount Drive, Tottington, Bury BL8 4HA

- 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 Mr/Mrs F Morpeth against the decision of Bury Metropolitan Borough Council.
 - The application Ref 66193, dated 13 November 2020, was refused by notice dated 11 March 2021.
 - The development proposed is the residential development of two detached dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. I have considered its provisions in relation to the appeal scheme and note that there are no significant changes from the 2019 iteration which would affect the main issues of the case. Accordingly, I have referred to the 2021 Framework in my findings.
3. I have taken the description of development above from that agreed between the Council and the appellant at the time of the planning application. It best describes the appeal scheme in precise and concise terms and is shown on the appeal form. I have proceeded on this basis.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area and whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to outlook.

Reasons

Character and Appearance

5. The appeal relates to an undeveloped piece of grassland to the rear of 21 and 23 Greenmount Drive. The western side of Greenmount Drive is characterised by large two-storey detached frontage dwellings that have generous gaps in between them. There is a linear street pattern along this side of the road, and properties have long rear and undeveloped garden areas that abut open fields and agricultural land beyond. The area therefore has a strong sense of being open and spacious, which contributes positively to its character and appearance.

6. The proposal would be in a backland location accessed via a new shared road between Nos 19 and 21. The introduction of two dwellings into this open and undeveloped area would increase the built form and density of development across the site. This would significantly erode the sense of spaciousness and appear out of context with the predominant layout and pattern of development in the immediate area.
7. The discordant effect of the proposal on the spaciousness of the area would be plainly visible from the gaps in between properties along Greenmount Drive, including that which would form the shared vehicular access to the site. It would also be apparent from a number of neighbouring properties and the footpath that bounds the rear gardens of the houses on the western side of this road.
8. I therefore find that the appeal scheme would harm the character and appearance of the area. As such it would conflict with Saved Policies EN1, EN1/2 and H2/1, H2/2 and H2/6 of the Bury Unitary Development Plan 1997 (UDP). Collectively, these seek, amongst other matters, to resist garden and backland development, by ensuring that the layout and form of new residential developments do not have an unacceptably adverse effect on the character and visual amenity of an area. It would also fail to accord with the design objectives of the Framework, specifically Section 12.

Living Conditions

9. I have doubts as to the merits of a design (for the dwelling on plot 1) which relies upon the use of obscure glazing in all of its rear and side openings. Given the separation distance between the proposed dwelling on this plot and Nos 21 and 23 it is unclear why obscure glass is necessary in the proposed rear elevation.
10. Nevertheless, the submitted plans show that these obscurely glazed openings would either serve non habitable rooms such as the hall, landing, toilets and en-suites, or would be small secondary windows to habitable rooms. The reduced amount of light at first floor level would be confined to a relatively narrow landing area, and all primary habitable room windows would have clear glazing in their windows, thereby providing sufficient levels of outlook from them. The large ground floor bifolding doors that would serve the kitchen/dining room and lounge would also ensure a more than reasonable outlook for future residents.
11. I note the Council's concerns about the design of the proposed dwelling on plot 1 being contrived, and I appreciate that this arrangement would only provide an outlook to the western direction with no overlooking of its rear garden area. However, I am unaware of any development plan policy, or supplementary planning document that specifically requires clearly glazed dual aspects to be provided. In this instance I am therefore unable to find that the proposal would not provide acceptable living conditions for future occupiers, with particular regard to outlook.
12. The proposal would not therefore conflict with the requirements of Saved Policies H2 and H2/1 of the UDP in this respect. These policies seek, amongst other things, to ensure that reasonable standards of residential amenity are maintained. It would also accord with paragraph 130 of the Framework which seeks a high standard of amenity for all existing and future users.

Other Matters

13. My attention has been drawn to an extant planning permission for one dwelling to the rear of 8 Chisholme Close (Ref:64515) and an existing dwelling to the northern end of Greenmount Drive. The appellant considers these to be similar to the proposal in terms of their two-storey design, appearance, orientation, external materials and curtilage sizes.
14. Nonetheless, the existing dwelling to the northern end of Greenmount Drive fronts this highway as there is a bend in the road. The approved dwelling (Ref:64515) would also be accessed via a single access point to the end of this cul-de-sac rather than a shared access in between houses. Accordingly, their circumstances are not directly comparable to those which apply in this appeal. I have, in any case, determined the appeal on its own merits.

Planning Balance

15. The Council accepts that it is unable to demonstrate a 5 year deliverable supply of housing land. The most important policies are therefore deemed to be out of date and, in light of Paragraph 11 d) ii) of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
16. I have found that the proposed development would be harmful to the character and appearance of the area. This harm would be wide ranging and long lasting. It would be contrary to the design aims of the Framework I have referred to above. With these factors in mind, I ascribe these matters substantial weight. My findings on the second main issue of this case would amount to a lack of harm and would thus be neutral in any balancing exercise.
17. No specific benefits to the appeal scheme have been advanced in the evidence. However, given the scale of the proposed housing, any economic, social and environmental benefits would be somewhat limited. The scale of the proposed development would also mean only a very small contribution to the Council's housing supply. The lack of planning officer objection in respect of the principle of development, the living conditions of neighbours, highway safety, ecological biodiversity, drainage and ground conditions did not appear to be contentious in the appeal and are in any event a lack of harm in each case. They are therefore also neutral factors that do not weigh in favour of the proposed development.
18. With this in mind, I would attach limited weight to the appeal scheme's benefits. As such, and bringing matters together, the adverse impacts of granting planning permission would, in this particular case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

19. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations including the provisions of the Framework, the appeal should be dismissed.

Mark Caine INSPECTOR



Appeal Decision

Site Visit made on 10 August 2021

by **R Hitchcock BSc(Hons) DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 August 2021

Appeal Ref: APP/T4210/Z/21/3274121

134 Rochdale Road, Bury BL9 7BD

- 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 Clear Channel UK Ltd against the decision of Bury Metropolitan Borough Council.
 - The application Ref 66653, dated 2 February 2021, was refused by notice dated 26 April 2021.
 - The advertisement proposed is Installation of D-Poster display (6m x 3m) to flank wall.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the date of the Council's decision a revised version of the National Planning Policy Framework (the Framework) has been issued which is a material consideration in decisions for advertisement consent. I have sought the further comments of the main parties and I have had due regard to the revised Framework and their representations in my determination of this appeal.

Main Issue

3. The main issue is the effect of the proposed advertisement display on highway safety.

Reasons

4. The proposed siting of the digital display would be set on the upper side wall of a two-storey building positioned close to the back of the footway on Rochdale Road. The side elevation addresses a parking area at the junction of Rochdale Road (A58) with Heywood Street (B6219). The adjacent wide crossroad box-junction serving those roads and Bond Street (B6219) is signal controlled by traffic lights.
5. The position of the proposed digital display would be such that it would be most prominently observed along the Rochdale Road corridor on approach to the site from the west. At the junction, the eastbound carriageway is split into three lanes, including a dedicated right turn lane. The stop line on the eastbound carriageway is situated some distance from the line of the traversing B6219 and there is clear space beyond the initial traffic light signals either side of the lanes before the box junction markings. The intervening area could accommodate a number of vehicles waiting to turn right or those intending to continue along Rochdale Road but facing static traffic beyond the box junction.

6. A further traffic signal facing the eastbound traffic is located on the pavement adjacent to the proposed display on the westbound side of the road. The signal is set a short distance forward of the of the building's side elevation. Once highway users travelling eastward have passed the initial stop line signals, this signal is the primary traffic light informing drivers of the junction status. There is no right filter phase in the traffic signalling for traffic on Rochdale Road, which is straight, level and subject to a 30mph speed limit in the locality.
7. The height of the traffic signal would overlap with the lower section of the display. In views from the majority of the waiting area between the initial eastbound signals and the box restriction, the signal would be seen against the backdrop of the display. Although this is similar to the existing situation where the signal is seen against a 48-sheet poster display, the proposal would be distinct in that it would accommodate changing LED images up to every 10 seconds.
8. Despite that the individual displays would be static with no flashing, animated or moving imagery, potential to cause losses of contrast and clear definition in views of the signals would exist. This would be particularly so if the individual advertisement were displaying similar colours to the signal lights or the encasement of the signal head, or, if the image was changing at the instant a driver is looking to the signal. Furthermore, against the scale of the lit display, the signal head would be somewhat visually 'consumed' by the proposal. This would reduce the clarity of the signal and be retrograde to highway safety at a busy junction serving a major route.
9. I recognise that the brightness of the display could be controlled, automatically adjust to ambient light levels and be reduced during night-time hours. However, this would not overcome the potential effects identified.
10. In support of the proposal, the appellant refers me to schemes for digital advertising allowed by the Council elsewhere. However, there is little evidence to demonstrate that those displays conflict with nearby traffic signals and therefore I am unable to draw comparisons with those cases. The appellant also states that the local accident record indicates only one accident was recorded in sight of the existing advertisement. However, this does not account for the proposed development and, at the time of my site inspection, the existing display was unlit and static. It is therefore distinct from the proposal before me, a case I have considered on its own merits.
11. I acknowledge that pursuant to Paragraphs 55 and 56 of the revised Framework matters of illumination and frequency of changes limited to static images could be controlled by planning conditions. However, in order to overcome the harm identified, I find that a restriction on the use of display colours or the blanking out of that part of the display against which the signal head would be seen would fail to meet the tests of reasonableness or enforceability in the particular circumstances of a proposal for a 6x3m display.

Other Matters

12. I acknowledge that the use of digital displays can be remotely controlled and operated to provide flexibility and reduce trip generation. They have a modern appearance and the proposal would assimilate in an area of commercial development. Furthermore, they can contribute to economic activity. However,

these matters do not alter my findings or overcome the harm I have identified in respect of highway safety.

Conclusion

13. I have taken into account the provisions of the development plan insofar as they are relevant, in accordance with the Regulations. I have had regard to saved Policies EN1/9 and HT2 of the Bury Unitary Development Plan [1997] as they seek to protect public safety, use of transport and improve road safety, which of the policies referred to me are the most relevant. I have also had regard to paragraph 136 of the Framework. Having found that the proposal would cause harm to highway safety, the proposal conflicts with those policies.
14. For the above reasons, I conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR