

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	27 August 2024
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 15/07/2024 and 15/08/2024**



Application No.: 69392/FUL **Appeal Decision:** Dismissed
Decision level: DEL **Date:** 25/07/2024
Recommended Decision: Refuse **Appeal type:** Written Representations
Applicant: Mr Stewart Sivvery
Location: Further Davises Farm, Mather Road, Bury, BL9 6TJ
Proposal: Change of use of a building to additional living accommodation; Two storey side extension and Single storey front extension; external alterations including alterations to windows / doors and removal of 2 no. windows

Application No.: 69616/FUL **Appeal Decision:** Dismissed
Decision level: DEL **Date:** 15/07/2024
Recommended Decision: Refuse **Appeal type:** Written Representations
Applicant: Mr K & Mrs V Stopforth
Location: The Coach House, Former Ainsworth Nursing Home, Knowsley Road, Ainsworth,
Proposal: Demolition of existing building to be replaced with 2 no. dwellings

Application No.: 69656/FUL **Appeal Decision:** Dismissed
Decision level: DEL **Date:** 22/07/2024
Recommended Decision: Refuse **Appeal type:** Written Representations
Applicant: Mr Konrad Wilk
Location: Land at Kingston Close, Bury, BL8 2EJ
Proposal: Erection of 4 no. dwellings and community facilities/recreation area with associated parking and landscaping

Application No.: 69884/FUL **Appeal Decision:** Updated
Decision level: DEL **Date:** 17/07/2024
Recommended Decision: Refuse **Appeal type:** Written Representations
Applicant: Park Avenue Ltd
Location: Land adjacent to 1 Park Avenue, Ramsbottom, Bury, BL0 0DA
Proposal: Erection of 1 no. dwelling including driveway

Application No.: 70163/AG **Appeal Decision:** Dismissed
Decision level: DEL **Date:** 22/07/2024
Recommended Decision: Prior Approval Required **Appeal type:** Written Representations
Applicant: Mr Stuart Alderson
Location: Land south of former Ainsworth Nursing Home, Ainsworth, Radcliffe, Bolton, BL2
Proposal: Prior approval for proposed agricultural building

Application No.: 70189/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Mr Ray Ellis

Appeal Decision: Dismissed
Date: 31/07/2024
Appeal type: Written Representations

Location: 1 Pitt Street, Radcliffe, Manchester, M26 3TF
Proposal: Balcony on top of existing rear single storey extension with obscure glazed balustrade

Application No.: 70422/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: In Focus Ltd

Appeal Decision: Dismissed
Date: 12/08/2024
Appeal type: Written Representations

Location: Pavement outside 46 Haymarket, Bury, BL9 0BX
Proposal: Installation of 1no. multifunctional communication hub including defibrillator and advertisement display

Application No.: 70423/ADV
Decision level: DEL
Recommended Decision: Refuse
Applicant: In Focus Ltd

Appeal Decision: Dismissed
Date: 12/08/2024
Appeal type: Written Representations

Location: Pavement outside 46 Haymarket, Bury, BL9 0BX
Proposal: Advertisement consent for display integrated into multifunctional communication hub unit

Application No.: 70427/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: In Focus Ltd

Appeal Decision: Dismissed
Date: 13/08/2024
Appeal type: Written Representations

Location: Pavement outside 1 Union Street, Bury, BL9 0NY
Proposal: Installation of 1no. multifunctional communication hub including defibrillator and advertisement display

Application No.: 70444/ADV
Decision level: DEL
Recommended Decision: Refuse
Applicant: In Focus Ltd

Appeal Decision: Dismissed
Date: 13/08/2024
Appeal type: Written Representations

Location: Pavement outside 1 Union Street, Bury, BL9 0NY
Proposal: Advertisement consent for display integrated into multifunctional communication hub unit



Appeal Decision

Site visit made on 11 June 2024

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th July 2024

Appeal Ref: APP/T4210/W/23/3331746

Hague Hall Farm, Mather Road, Bury BL9 6TJ

- 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 Stewart Sivvery against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 69392.
 - The development proposed was originally described as: retrospective application for retention of 1m extension to remove setback on two storey side elevation together with alteration to fenestration and change of use of part of building to additional residential accommodation.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the National Planning Policy Framework (the Framework) was revised and the Council adopted the "Places for Everyone" Development Plan Document on 21 March 2024 (DPD). The DPD replaces certain policies of the Bury Unitary Development Plan 1997 (UDP), including UDP Policy EN1/1 cited in the Council's reasons for refusal. The main parties have had an opportunity to comment on the implications of the revised Framework and the DPD within the appeal timetable, and I have taken account of any comments made.

Main Issues

3. Having regard to all of the evidence before me, the main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt, including the effect upon openness, having regard to the Framework and relevant development plan policies;
 - the effect of the proposal upon the character and appearance of the host property, and the wider area;
 - whether the proposed development would provide acceptable arrangements for digital connectivity;
 - whether the proposed development would be net zero carbon; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Background

4. During a fire incident at the appeal site in 2017, the appeal property was damaged by a fire tender reversing into a single storey outrigger, aligned to the main elevation. Various works subsequently took place at the appeal property, some of which are considered by the appellant as pursuant to previous permissions. The Council considers that some works are unauthorised.
5. For the avoidance of doubt, it is not the role of an Inspector dealing with a s78 appeal to determine whether any works undertaken at the appeal site are lawful. I have considered the proposal as submitted.
6. A planning application¹ was submitted to regularise matters and included a two-storey side extension with a setback to the main elevation. This was refused in August 2021 and subsequently dismissed at appeal² (the dismissed scheme). A further application³ was made to include the same setback as the dismissed scheme, but with other changes to the previously dismissed scheme. This was granted in September 2022 (the approved scheme).
7. The situation as built is such that the footprint of the damaged outrigger and an adjacent single storey workshop is now occupied by the proposed two-storey extension, aligned with the main elevation. The appellant seeks the retention of the two-storey extension as built.
8. As the dismissed and approved schemes include a setback, they are not entirely comparable to the scheme before me. In any event, I am not bound by previous decisions and DPD policies must also be taken into account.

Whether inappropriate development, including the effect upon openness

9. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances; and that the construction of new buildings within the Green Belt is inappropriate development.
10. There are, however, a limited number of exceptions to this, as set out in paragraph 154 of the Framework. Paragraph 154 c) refers to the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building⁴.
11. The Framework does not define what may constitute a disproportionate addition. An assessment of whether the proposal would be disproportionate to the original building is therefore a matter of planning judgement but the overall size of the building (for example in terms of footprint, floorspace and/or volume) is clearly an important factor.

¹ Ref: 66800

² Ref: APP/T4210/W/21/3284471

³ Ref: 68626

⁴ The Framework defines 'original building' as the building as it existed on 1 July 1948, or if it was constructed after that date, as it was built originally.

12. DPD Policy JP-D9 defines the extent of the Green Belt. UDP Policy OL1/2 sets out that the construction of new development in the Green Belt is inappropriate development unless it is for certain purposes, which include an exception for 'limited extensions' of existing dwellings, provided this would not result in disproportionate additions over and above the size of the original dwelling.
13. Supplementary Planning Document: *Development Control Policy Guidance Note 8 – New Buildings & Associated Development in the Green Belt - January 2007* (SPD8) sets out that in general terms, the Council may allow an extension to be up to a third of the volume of the original dwelling. It further states that each proposal will be considered on its own merits and even an increase up to a third may not be appropriate in certain situations (e.g. if the site is a particularly sensitive area or if there are other amenity issues).
14. Although the appellant has commented on the age of the UDP, paragraph 225 of the Framework is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
15. While I consider UDP Policy OL1/2 and SPD8 to be broadly consistent with the Framework, SPD8 seeks to advise on other factors beyond those of size. The Council's concerns about the absence of a setback and the design of the two-storey extension relate primarily to the effect upon the character and appearance of the existing dwelling and the surrounding area, and these matters are addressed in my next main issue.
16. The appellant's calculations indicate that the appeal scheme would result in a volume increase of 31.66% when considered against the original dwelling. These figures are not disputed by the Council. Thus, the appeal scheme would be within the SPD8 threshold.
17. Having regard to all of the above, I consider that the proposal would not result in a disproportionate addition to the original building in terms of size, and it therefore falls within the exception at paragraph 154 c) of the Framework. Consequently, the proposed development would not, by definition, have an adverse impact on the openness of the Green Belt or the purposes of including land within it. Furthermore, there is no requirement to assess if there are other considerations that amount to very special circumstances to justify it.
18. I therefore conclude that the proposed development would not be inappropriate development. It accords with UDP Policy OL1/2 and DPD Policy JP-D9, and the provisions of the Framework.
19. The Council considered the proposal to conflict with UDP Policy OL1/4, which relates to the conversion and re-use of buildings within the Green Belt. It is clear that the proposal before me relates to extensions, and therefore I do not consider this policy and guidance to be relevant to the proposal before me.

Character and appearance

20. The appeal site is within the Pennine Foothills (West/South Pennines) Landscape Character Area (LCA), characterised as a traditional working landscape with a traditional, upland fringe feel, with scattered farms and houses of a local stone vernacular.

21. DPD Policy JP-P1 seeks to ensure that development respects the distinctive character and identity of its locality in terms of design, siting, scale and materials. DPD Policy JP-G1 seeks to ensure that the development within LCAs reflects and responds to the special qualities and sensitivities of the key landscape characteristics of its location, including views and perceptual qualities. The Council advises that guidance within the Greater Manchester Landscape Character and Sensitivity Report seeks to ensure that any development in the LCA is in keeping with the form, density and vernacular of existing buildings.
22. The appeal property is a detached two storey farmhouse with a traditional appearance in an upland context with a local stone vernacular, although it includes some raking brickwork supports to the rear elevation. It is within view from the approach via Mather Road, from the nearby public footpath/bridleway network, from the denser settlement pattern to the north (albeit at some distance), and within the wider landscape. Consequently, the appeal property makes a positive contribution to the character of the LCA.
23. UDP Policy H2/3 seeks to achieve a high standard of design that compliments the original building, supported by the Council's Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties 2010 (SPD6), which seeks to ensure proposals reflect the design and proportion of the original dwelling.
24. Due to its overall scale, height and width, the proposed two storey extension significantly extends the existing two-storey wing, flush to the main elevation. A subordinate relationship to the host dwelling is therefore not maintained. Such a design would not respect the original form, scale and mass of its host, and the two-storey extension as built appears as a dominant addition to the building, whether in view from the immediate area, or within more distant views.
25. In this regard, my findings are consistent with those of the previous Inspector for the dismissed scheme, albeit as part of his consideration of the dismissed scheme in regard to his first main issue. That Inspector found that "given the wide frontage of the building, and the setback proposed to the front wing, this addition at the end of the building would appear subservient."
26. The appellant accepts that a setback is a common default mechanism for extensions but draws my attention to the alignment of the previous outrigger in that it was in situ for decades. However, the evidence before me indicates that the outrigger was a single storey lean-to form, with a mono-pitch roof. Consequently, it maintained a subordinate relationship to its host by virtue of its overall scale, height, width and depth and design, along with the adjacent workshop. The fact that the outrigger was damaged due to circumstances outside the appellant's control is unfortunate but is not a matter that alters the planning merits of the proposal before me.
27. As built, the two-storey extension fails to respect the randomised stone pattern of the main elevation of existing dwelling. The appellant suggests that the views of the incompatible stonework are close to imperceptible from public locations. However, and despite recent stone cleaning, I did not find this to be the case during my visit, particularly from the approach along Mather Road and the nearby public footpath/bridleway network.

28. In any event, the appellant is willing to remedy this matter by removing and rebuilding the front wall, and this is supported by a method statement submitted with the application. This matter could therefore be controlled by a suitable condition if I were to allow the appeal.
29. However, this would still result in the partial concealment of all of the quoins within the north-westerly corner of the existing building (unlike the previous single storey outrigger) and thus the two-storey extension would fail to respect the original design and appearance of the dwelling, even if a heritage style drainpipe was deployed to camouflage the join and other sympathetic features are proposed including further quoins, headers and cils.
30. I therefore conclude that the proposal would unacceptably harm the character and appearance of its host and the wider area. It conflicts with DPD Policies JP-P1 and JP-G1; UDP Policy H2/3 and the guidance within SPD6, whose objectives I have set out above.

Digital connectivity

31. DPD Policy JP-C2 seeks to ensure that new development is equipped with electronic communication services and requires all new development to have full fibre to premises connections. There is no substantive evidence before me to demonstrate compliance with this policy.
32. The proposal relates to an existing property which may already benefit from broadband connectivity. In any event, the policy allows an exception if it can be demonstrated that such connectivity is not practicable or financially viable. In such circumstances, I see no reason why this matter could not be controlled by a suitable condition.
33. I therefore conclude that subject to a suitable condition, the proposed development would provide acceptable arrangements for digital connectivity. It accords with DPD Policy JP-C2.

Net Zero Carbon

34. DPD Policy JP-S2 expects all new development to be net zero carbon. The expectation from the adoption of the DPD is that net zero carbon should be achieved for regulated carbon emissions; from 2028 for all emissions in construction; and from 2025, development should also calculate and minimise carbon emissions from unregulated emissions. An energy statement should set out how this will be achieved, in accordance with an energy hierarchy.
35. There is no energy statement before me, nor any substantive evidence to detail how the proposal would comply with this policy. However, as the policy allows an exception if it can be demonstrated that net zero carbon is not practicable or financially viable, I see no reason why this matter could not be controlled by a suitable condition.
36. I therefore conclude that subject to a condition, the proposed development would accord with DPD Policy JP-S2, whose objectives I have set out above.

Other Matters

37. The proposal would support the efficient use of land. The appellant states that the proposal will deliver a 'better quality' home. However, it been demonstrated that the existing property is below any particular standard, nor

that it is necessary to meet any particular need of the occupier, nor that the proposal is the only way to achieve this objective. The benefits of additional space to the occupier would be a private benefit.

38. While the appellant intends to employ local labour for the proposal, there is no mechanism to secure such a benefit to the local economy. Nevertheless, the proposal would result in temporary economic benefits of a limited scale, and therefore attract limited weight.

Conclusion

39. Although I have found that the proposal would not be inappropriate development within the Green Belt, it would unacceptably harm the character and appearance of its host and the wider area. The policies with which the proposal conflicts are in accordance with the Framework, which seeks to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
40. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

J Moore

INSPECTOR



Appeal Decision

Site visit made on 5 April 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2024

Appeal Ref: APP/T4210/W/23/3332224

The Coach House, Former Ainsworth Nursing Home, Knowsley Road, Ainsworth, Bury BL2 5PT

- 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 Mr & Mrs K J & V Stopforth against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 69616.
 - The development proposed is demolition of existing building and erection of two detached dwellings.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr & Mrs K J & V Stopforth against Bury Metropolitan Borough Council. That application is subject to a separate Decision.

Preliminary Matters

3. Since the appeal was submitted, the Council has adopted Places for Everyone¹ as part of the statutory Development Plan for the Borough. The main parties were given the opportunity to comment on the adopted plan and I have taken into account the comments received accordingly.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023 and is a material consideration in this appeal. Comments were invited from the main parties and responses received have been taken into account.
5. The appeal site is located in the Green Belt. Based on the information presented, the development would not be inappropriate development in the Green Belt because it would accord with paragraph 154 g) of the Framework. This position is agreed by the main parties and I have no justifiable reason to come to a different conclusion.
6. A Structural Survey has been submitted with the appeal which the Council point out was not part of the planning application and therefore not subject to consultation or assessment as part of its decision making process. Although the structural report did not form part of the planning application, it was submitted

¹ Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022 to 2039, Adopted 21 March 2024.

as part of the appellants' grounds of appeal at the outset of the appeal procedure. The Council consulted the relevant parties about the appeal and so an opportunity was given for any comments to be made. The Council has commented on the survey and so I do not consider that any unfairness or harm to natural justice would occur by my taking the structural survey into account in my assessment of the appeal.

Main Issues

7. The main issues are the effect of the proposal on: -

- the character and appearance of the area, including its effect on non-designated heritage assets; and
- the living conditions of the occupiers of The Haven and The Wash House by reason of loss of privacy or outlook.

Reasons

Character and Appearance

8. The appeal site comprises part of the former Ainsworth Nursing Home complex, located just off Knowsley Road on the outskirts of Ainsworth. Together with a number of other structures on the wider complex, it was developed in the early 20th century as part of Ainsworth Hospital for the treatment of smallpox. When the nursing home use ceased, the site was sold as separate plots and a number of these former hospital buildings converted to residential use, including The Wash House. Other buildings within the complex include, The Haven, The Bungalow and another dwelling to the south west of the appeal site, not yet built but granted planning permission². At this time, the appeal building was given the name The Coach House.
9. The Council's draft list of non-designated heritage assets indicates that all the 'Former Isolation Hospital' buildings are included in the local listing. I have taken all the former surviving hospital buildings to be non-designated heritage assets, including The Coach House.
10. The Coach House was formerly an isolation ward, while other structures housed an administrative block; the male and female hospital wards; baths; a laundry and a mortuary. The submitted heritage statement outlines that the site was in operation as a hospital in 1976 and subsequent to smallpox being eradicated, it became a nursing home in 1986.
11. The significance of these buildings individually derives from their architectural interest and associations with a locally renown architect, Henry Lord. Significance comes from the former use and function of the wider hospital complex and evidences the evolution of health and social care as a pre-cursor to the later creation of the welfare state and the National Health Service. Some of the other buildings have more architectural interest and detailing than others which contribute greater aesthetic value. Significance also comes from the buildings' group value, being a remnant of former hospital structures, with functional and associative links. Consequently, the wider former hospital site forms the setting for the designated heritage assets and each surviving

² Planning Application Ref: 68661.

structure within this contributes to the significance of the designated heritage assets therein.

12. The Coach House is a rectangular single storey building, constructed of red engineering brick, a slate roof with terracotta ridge tiles, a feature entrance and emphasis on vertical fenestration. Compared to more striking former hospital buildings, such as Knowsley House, the Coach House is of a restrained design, unadorned and institutional aesthetic, of modest scale and simple in form. The submitted heritage statement describes the appeal building as being low in value historically, aesthetically and communally. However, the Council states that this type of former hospital building is rare and is the only one understood to have existed in the Borough and therefore of local significance.
13. Other buildings on the wider complex might be of greater aesthetic value, reflective of their former functional status within the hospital complex. Nevertheless, the Coach House is of significance as part of the wider group and distinct for its separate and functional appearance, consistent with its original purpose as an isolation ward. The Coach House also shares historic and associative value with the other designated heritage assets on the wider complex, and contributes to their significance. The former hospital complex has evidently evolved and changed over time, including some buildings being demolished and others linked together. Despite additions, removals and alterations, to this day the original plan form, character and former use is legible. Therefore, the character and appearance of the wider complex, is greatly informed by the interrelationship, architectural hierarchy and cohesive character of the surviving former hospital buildings.
14. The appeal scheme proposes the wholesale demolition of the Coach House. Consequently, the significance of this building would be lost in its totality. Furthermore, the demolition of the Coach House in the setting of other designated heritage assets on the site weaken what survives of a coherent former integrated hospital complex.
15. The proposal would replace the existing single building with two detached dwellings. The design of the proposed dwellings is intended to reflect some of the design characteristics mentioned by a previous Inspector, who dismissed an appeal for the demolition of the existing building and erection of two detached dwellings³ on the same site.
16. Of themselves, the proposed buildings would appear as two-storey houses that would be typical suburban residential properties, not dissimilar to that which can be found almost anywhere. Whilst it is possible to pick out some specific details such as brickwork and roofing materials or porches and chimneys, these specific details alone fail to reflect the identity of either the extant building, or the other former hospital buildings that characterise the wider site.
17. Moreover, the proposed dwellings would be large, the four bedroomed dwelling, identified as House 1 would especially appear substantially larger and more dominant than the smaller dwelling alongside it, The Wash House. The development would also compete with Knowsley House, which historically was a key building on the hospital site. Although the buildings have long ceased to function as a hospital, there is a clear hierarchy of buildings that remains today. The introduction of two large detached dwellings as proposed, would

³ Appeal Ref: APP/T4210/W/22/3298500.

erode that balance and undermine the integrity of the overall site. The scale, form, design and overall appearance of the proposed dwellings would be at odds with the character and appearance of the former hospital, they would not sit comfortably within the wider setting of the heritage asset and would do little to respect its relevance and significance.

18. Drawing all of the above together, I consider that the proposed development would harm the significance of The Coach House and the other former hospital buildings in the wider complex, as non-designated heritage assets. The proposal would therefore result in total loss of significance of The Coach House and indirectly affect the significance of the other non-designated heritages. Furthermore, the proposed dwellings would do little to reflect the historical narrative of the site but rather would be uncomfortably out of place and harm the character and appearance of the area. The proposed development would therefore conflict with UDP⁴ Policy EN1 which, amongst other things, seeks to protect, preserve and enhance the character and appearance and amenity of the Borough's built environment. Moreover, it would conflict with the aims of the Framework to conserve and enhance the historic environment.

Living Conditions

19. The Haven is located to the south of proposed House 2 and the distance between the two falls below the separation standard normally required between habitable windows. These are set out in SPD 6⁵. Although this document relates to alterations and extensions to residential properties, the separation standards aimed to protect privacy and overbearing relationships between dwellings are applicable.
20. At first floor level, House 2 would incorporate three roof lights, two of which would be to bathrooms and the other to a bedroom. Although the roof light would provide the only window to the bedroom, this room would be modest in size and I see no particular harm in relation to the level of natural light that the roof light would provide. The distance between the window and the rear elevation and windows to habitable rooms at The Haven would be below the standard. The appellant suggests that this could be overcome by condition or amendment to the plan. Whilst it would not be appropriate to impose a condition requiring the plans to be amended, it would be reasonable to require detailed specifications of the window to be submitted which could specify the height of the window above the internal floor level of the bedroom, glazing and opening details. Furthermore, the window would be slightly off-set from The Haven and so I am satisfied that overlooking from this window could be minimised.
21. The Wash House lies to the west of proposed House 1 and although the proposed dwelling would be taller and larger than The Wash House, the distance between the two is sufficiently wide to ensure that it would not be unduly overbearing. As such, the living conditions of the occupiers of The Wash House would not be harmed due to an overbearing outlook.
22. Therefore, the proposal would not harm the living conditions of the occupiers of The Haven or The Wash House by reason of loss of privacy or outlook. UDP

⁴ Bury Unitary Development Plan, Adopted Plan 1997 – Written Statement Adopted by Bury Metropolitan Borough Council 29 August 1997.

⁵ Supplementary Planning Document 6 – Alterations and Extensions to Residential Properties, Adopted 17 March 2004 and updated 13 January 2010.

Policy H2/1 requires development to make a positive contribution to the form and quality of the surrounding area taking into account matters including the position and proximity of neighbouring properties. Although the proposal would conflict with the SPD with regard to the separation distance, this would not cause harm as I have stated and no conflict with Policy H2/1 would arise. Both neighbouring properties have raised other concerns but these are not matters that would justify withholding permission on the basis of the effect on living conditions.

Other Matters

23. The structural report notes that there has been movement and/or erosion in the brickwork below damp course level to the front elevations although the brickwork above damp course level is reasonably plumb and within acceptable tolerance. To rectify these problems the report recommends the brickwork below damp proof course level to be taken down to the foundation and re-built. It goes on to state that as it would be extremely difficult to replace and underpin the brickwork, the main wall to the left hand side of the entrance should be taken down and rebuilt on a new foundation. Likewise, part of the rear wall would require the same level of treatment. Other works are also recommended.
24. The appellant states that these works would impact on the viability and the feasibility of a conversion. However, no evidence has been submitted to support this. The report alone is not sufficiently compelling to overcome the harms I have identified.

Planning Balance

25. The Council originally indicated that it did not have a five year supply of housing land as required by the Framework. However, the Places for Everyone Joint Development Plan has resulted in strategic housing sites, which along with the identified housing land supply within the urban area enable the Council to demonstrate a deliverable five year supply of housing land. Paragraph 11 d) of the Framework is therefore not engaged. Nonetheless, the proposed development would provide two additional dwellings that would contribute towards boosting the supply of housing and choice of homes available in the Borough. There would be economic benefits relative to the construction phase and as future occupiers feed into the local economy.
26. No concerns have been raised about the access or parking arrangement for the new dwellings and I note the appellants intention to prepare and submit a Construction Management Plan which could be secured through a condition. A section of impermeable access road would be removed and new hardstanding areas would be constructed with permeable surface material. The site would also be landscaped. I note that a sprinkler/misting system is proposed for each dwelling in order to address any concerns of the Greater Manchester Fire and Rescue Service. I also note that the new build scheme would be capable of delivering long term gains in energy efficiency and sustainability. Furthermore, the proposal would involve the partial redevelopment of previously developed land.
27. However, these benefits together with the lack of harm to the living conditions of the occupiers of The Haven or The Wash House do not overcome the harm I

have found to the character and appearance of the area and the non-designated heritage assets.

Conclusion

28. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, for the reasons set out above, the appeal should be dismissed.

J D Clark

INSPECTOR



Costs Decision

Site visit made on 5 April 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2024

**Costs application in relation to Appeal Ref: APP/T4210/W/23/3332224
The Coach House, Former Ainsworth Nursing Home, Knowsley Road,
Ainsworth, Bury BL2 5PT**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs K J & V Stopforth for a full award of costs against Bury Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing building and erection of two detached dwellings.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. A previous appeal to demolish the building and erect two dwellings was dismissed¹. In that appeal, the Inspector was not persuaded that the loss of the appeal building could not be mitigated against but found that the proposed scheme was not of sufficient design quality to mitigate against the loss.
4. Following that dismissal, the appellants focused on the design of the new dwellings for the submission of a revised scheme. They sought to address specific comments made by the previous Inspector and took into account the details of a scheme for a new dwelling recently approved by the council on land to the south-west of the appeal building².
5. However, in its delegated report for this proposal, the Council states that even if the two new dwellings were of exceptional quality it would still not mitigate against the total loss of a heritage asset. The appellants have taken this as indicating that the Council's position against the loss of the existing building was entrenched and no mitigation under any circumstances would be possible. This, they state would contradict the views of the previous Inspector.
6. Although the Council's statement suggests that an acceptable scheme is not possible it goes on to assess the proposed development. Its decision is based on the effect of the demolition and proposed new dwellings on the non-designated heritage asset, the character and appearance of the area and the effect on the living conditions of the occupiers of The Haven and The Wash

¹ Appeal Ref: APP/T4210/W/22/3298500.

² Planning Application Ref: 68661.

House. The Council justify its reasoning based on adopted development plan policies.

7. Section 16 of the Framework does not suggest that mitigation is necessary for the loss of a non-designated heritage asset but requires a balanced judgement to be made about the scale of the harm to the significance of the asset. In this case the proposal would result in the total loss of the asset. It therefore follows that the acceptability of any new build or replacement is balanced against the harm caused by the loss.
8. I am satisfied that the Council has not behaved unreasonably. Its decision has not prevented development that otherwise should clearly have been permitted, having regard to the development plan, national policy and other material considerations and the appellants therefore have not incurred unnecessary or wasted expense in submitting this appeal.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J D Clark

INSPECTOR



Appeal Decision

Site visit made on 11 June 2024

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/T4210/W/23/3330029

Land adjacent to Kingston Close, Elton, Bury BL8 2EJ

- 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 Mr Konrad Wilk against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 69656.
 - The development proposed was originally described as erection of four dwellings and community facilities with associated parking and landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, the National Planning Policy Framework (the Framework) was revised. The main parties have had the opportunity to comment on any implications of the revised Framework within the appeal timetable.
3. Furthermore, on 21 March 2024, after the appeal was submitted, the Council adopted the Development Plan Document "Places for Everyone" (DPD). The Council's submissions assess the proposal against the policies of the DPD and the appellant has had an opportunity to comment on this matter within the appeal timetable.

Main Issues

4. The main issues are:
 - the effect of the proposal upon open space provision, highway safety, main water supply, and the character and appearance of the area; and
 - whether the proposed development would provide acceptable living conditions for future occupiers, with regard to relevant standards for internal space, and accessible and adaptable dwellings;
 - whether the proposed development would provide acceptable arrangements for the storage and collection of refuse and recycling;
 - whether the proposed development would provide acceptable arrangements for digital connectivity; and
 - whether the proposed development would be net zero carbon.

Reasons

Open space provision

5. The Council states that the appeal site is an area of amenity greenspace originally provided as a developer contribution in conjunction with residential development at Kingston Close/Newham Drive. It was assessed as being of good quality in the Council's Green Space Audit and Strategy 2015 and serves as informal recreation space. It is located within the urban area of Bury West, which is identified as an area of quantitative deficit. Representations during determination stage and to the appeal indicate use by the community for informal recreation, open air events, dog walking and other activities.
6. There is no substantive evidence before me to demonstrate that the appeal site is surplus to open space requirements. Regardless of whether the area is grassed without any facilities, the loss of such open space arising from the proposal would not be replaced by an equivalent provision in terms of quantity elsewhere. The presence of any other informal recreation/amenity space within a certain distance from the appeal site does not justify its loss in the context of an established shortfall.
7. The submitted plans detail a proposed recreational area, without further annotation to indicate any equipped play area. The document prepared by Sovereign (the Sovereign document) appears to be a quotation for an equipped play area, with a proposed layout to include various equipment. However, the layout indicates equipment sited within areas annotated on the proposed landscape plan as existing and/or proposed soft landscaping. Consequently, there is conflicting information regarding the layout of the area. Furthermore, there is no proposed mechanism before me to secure the indicated layout, nor its management and maintenance.
8. There is no substantive evidence before me pertaining to the existing supply of equipped play space and whether the proposal would address any shortfall in quantitative or qualitative terms. It has therefore not been demonstrated that the proposal would result in better provision in terms of quantity or quality in a suitable location; nor that it would result in alternative recreational provision, whereby the benefits of which could clearly outweigh the loss of the amenity open space/informal recreational space.
9. I therefore conclude that the proposal would have an unacceptable effect upon open space provision. It conflicts with DPD Policies JP-G6 and JP-P7, and Policies EN1/2 and H2/2 of the Bury Unitary Development Plan 1997 (UDP). Taken together, these policies seek to ensure an appropriate scale, type, quality and distribution of accessible green space; to protect and enhance existing urban green spaces and the network of high quality and accessible recreation spaces; and to ensure that new residential development demonstrates an acceptable standard of layout, including that for open space provision. It also conflicts with paragraph 103 of the Framework, which seeks to protect existing open space.

Highway safety

10. Each dwelling would have its own driveway to accommodate tandem parking spaces, with three spaces for Plot 4 and two for the other three plots. The driveways would be in proximity to the junctions of Kingston Close/Sutton

Close and Kingston Close/Finchley Close, where Kingston Close also bends towards the south. Plots 2 and 3 would share a double footway crossing, while plots 1 and 4 would have single footway crossings. The crossing serving Plot 4 would be very close to the access serving Nos 1 and 3 Finchley Close.

11. There is no substantive evidence before me to demonstrate how vehicles could safely enter and egress each plot with tandem parking in such proximity to multiple junctions. In the absence of any evidence to demonstrate that adequate visibility splays and forward visibility envelopes could be provided, I cannot be certain that the proposal would not unacceptably impede the free flow of traffic, nor result in an unacceptable risk of conflict between various highway users, including other vehicles, cyclists and pedestrians, particularly children visiting the proposed equipped play area.
12. The appellant draws my attention to other nearby properties with direct access from driveways across the footway. However, many of the examples do not have tandem parking arrangements, and those that do are not in such proximity to multiple junctions.
13. At present, the appeal site is largely bounded by a simple post and rail fence of a low height near to the back of the footway and the adjacent car park serving Bolton Road Methodist Church. The indicative layout for the proposed play area within the Sovereign document indicates that the existing pedestrian access to the recreational area would be retained, which is close to the proposed driveway to serve Plot 1.
14. The proposed landscaping plan does not indicate any new fencing to the proposed recreational area, save for a 2m high fence running along most of the side boundary to Plot 1. The appellant suggests that the layout plan within the Sovereign document clearly states a fence was to be provided to the boundary, However, this shows a hashed line annotated as "fence" and it is not clear that it would replace that existing, nor is any proposed fence specified in terms of height or form, and no new fencing is detailed within the quotation.
15. In any event, the fact of the matter is that the proposal would result in the creation of an equipped play area likely to be of increased attraction to children compared to the existing situation. In this context, it is likely that children would be at risk in travelling to the site or exiting from it, potentially into the path of approaching vehicles. It has not been demonstrated that measures to prevent or mitigate such risks are not required.
16. The landscaping plan details permeable block paving to each driveway. In the absence of a specification and in order to prevent surface water discharge onto the highway, the Council considers that further measures may be necessary. However, such matters could be controlled by a suitable condition.
17. Overall, the proposal fails to demonstrate that it would not result in unacceptable risks to highway safety in terms of potential conflicts between road users and pedestrians, including children. Furthermore, the proposal fails to demonstrate that such risks could be minimised or effectively mitigated.
18. I therefore conclude that the proposal fails to demonstrate that it would not result in unacceptable harm to highway safety. It conflicts with UDP Policies H2/2, HT2/4 and HT6/2. Taken together, these policies seek to ensure a satisfactory layout for new residential development, with regard to pedestrian

and highway safety, car parking provision, access for vehicles and pedestrians, and open spaces including children's play areas.

Main water supply

19. A water main runs across the site with an easement. Due to the absence of an appropriate survey and/or site-specific investigations, the accurate location, line and depth of this main is unknown. The rear elevations of the proposed dwellings would be sited at the edge of the easement, with surface water drainage and patio areas extending into the area of easement.
20. Although the appellant has liaised with United Utilities (UU) on this matter, UU object to the proposal. If the Council had been minded to grant permission, I note that UU sought a pre-commencement condition to control this matter, along with the removal of permitted development rights for any extensions or buildings to the rear of the proposed dwellings, in order to ensure the safety of the water supply and in the interests of public health.
21. The results of a detailed survey could result in a substantial change to the proposal, for example in terms of the scale, siting and footprint of built form and the overall layout. Consequently, I cannot be certain that the proposal would be fundamentally the same as that before me, and therefore I am not content to leave this matter to a condition. Furthermore, I am not content to impose a condition to restrict permitted development rights in the absence of a clear and convincing justification.
22. I therefore conclude that the proposal fails to demonstrate that it would not unacceptably harm main water supply. It conflicts with UDP Policies H2/2 and EN1/2, which seek to ensure that new residential development demonstrates acceptable standards of layout, including the relationship of development to the surrounding area. It also conflicts with the objectives of the Framework to achieve well-designed places.

Character and appearance

23. The surrounding residential area is comprised of two storey properties, predominantly detached with hipped roofs, some with gabled front projections and roof canopies above entrance doors and integral garages. There are semi-detached forms along Finchley Close which have an asymmetrical appearance due to the use of front gables, which harmonise with the surrounding detached forms in the area. Further harmony is achieved through the use of consistent materials including brickwork, brick detailing, and window proportions.
24. The proposed dwellings would be 2.5 storeys, with wide box dormers set within the front roof plane of a shared pitched roof, to provide accommodation within the roof space. While the ridge height would be commensurate with nearby properties, the proposed roof pitch is such that it would be much steeper than the shallower pitch of roof forms within the wider area.
25. These factors would combine to result in a top-heavy and disproportionate appearance in comparison to properties within the surrounding area. Consequently, the proposed dwellings would appear incongruous and discordant to the wider character and appearance of the area, despite the use of similar materials.

26. The appellant suggests that existing properties in the surrounding area would be able to construct dormers under permitted development rights. However, there is no substantive evidence before me to demonstrate that such properties would meet the requirements of the GPDO¹. Although the GPDO permits alterations/additions to the roof of a dwellinghouse, such rights do not apply where works would extend beyond the plane of an existing roof slope to a principal elevation that fronts a highway.
27. I therefore conclude that the proposed development would harm the character and appearance of the area. It conflicts with UDP Policies H2/1 and EN1/2. Taken together, these policies seek to ensure that new residential development makes a positive contribution to the character of the surrounding environment, including through its design and roof type; and does not adversely harm the character and townscape of the borough.

Refuse and recycling facilities

28. The proposed plans do not indicate an area for the storage of bins for refuse and recycling. The appellant suggests that bin storage could be accommodated within the rear amenity area of the proposed dwellings. Given the relationship between the footprint of the proposed built form and the size of the plot, I am satisfied that bin storage could be accommodated within the curtilage of each dwelling, and therefore this matter could be controlled by a suitable condition.
29. My own observations indicate that nearby properties store bins within their frontage/rear amenity space. While the placement of bins along the footway outside of collection days could cause an obstruction on the footway, this would be no different to the prevailing situation in the surrounding area.
30. I therefore conclude that, subject to a suitable condition, the proposed development would provide acceptable arrangements for the storage and collection of refuse and recycling. It would accord with UDP Policies H2/2, HT2/4 and HT6/2 insofar as these policies relate to satisfactory arrangements for the servicing of new residential development.

Living Conditions

31. DPD Policy JP-H3 seeks to ensure that new dwellings comply with *Technical housing standards – nationally described space standard* (THS) and are built to 'accessible' and adaptable standard in Part 4(2) of Building Regulations. The appellant states that the proposed dwellings would comply with the THS, and there is no substantive evidence before me to indicate otherwise. In any event, these matters could be controlled by suitable conditions.
32. I therefore conclude that subject to suitable conditions, the proposed development would provide acceptable living conditions for future occupiers, with particular regard to relevant standards. It accords with DPD Policy JP-H3.

Digital connectivity

33. DPD Policy JP-C2 seeks to ensure that new development is equipped with electronic communication services and requires all new development to have full fibre to premises connections. The policy expects that internet connections will be operational and immediately accessible to network providers when

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

occupiers move into new properties. There is no substantive evidence before me to demonstrate that the proposal would comply with this policy.

34. However, as the policy allows an exception if it can be demonstrated that such connectivity is not practicable or financially viable, and the appeal site is within an established residential area in an urban location, I see no reason why the proposal could not comply with this policy. Therefore, this matter could be controlled by a suitable condition.
35. I therefore conclude that subject to a suitable condition, the proposed development would provide acceptable arrangements for digital connectivity. It accords with DPD Policy JP-C2.

Net Zero Carbon

36. DPD Policy JP-S2 expects all new development to be net zero carbon. The expectation from the adoption of the DPD is that net zero carbon should be achieved for regulated carbon emissions; from 2028 for all emissions in construction; and from 2025, development should also calculate and minimise carbon emissions from unregulated emissions. An energy statement should set out how this will be achieved, in accordance with an energy hierarchy. There is no energy statement before me, nor any substantive evidence to detail how the proposal would comply with this policy.
37. However, the policy allows an exception if it can be demonstrated that net zero carbon is not practicable or financially viable. I therefore see no reason why the proposal could not comply with this policy, and this matter could therefore be controlled by a suitable condition.
38. I therefore conclude that subject to a condition, the proposed development would accord with DPD Policy JP-S2, whose objectives I have set out above.

Other Matters

39. The fact that the proposal would provide acceptable separation distances to nearby properties is a neutral matter, attracting no weight either for or against the proposal.
40. The Council accepts that the proposal would result in the loss of a low ecological value habitat, and I find no reason to consider otherwise. The appellant suggests that the proposed tree/shrub planting would deliver a biodiversity net gain. However, this has not been robustly demonstrated, and the proposed landscape plan conflicts with the indicative layout for the equipped play area. This matter therefore attracts no weight in favour of the proposal.
41. A range of other matters of concern have been raised by interested parties. However, as I am dismissing the appeal on the main issues, and consideration of these matters will not alter my decision, it is not necessary for me to address them directly.
42. The appellant suggests that the majority of the Council's concerns could have been clarified and overcome during the determination phase. For the avoidance of doubt, the handling of a planning application by a local planning authority does not affect my consideration of the planning merits of the proposal.

Planning Balance and Conclusion

43. At the time of determination, the Council was unable to demonstrate a five-year supply of deliverable housing sites. Following the adoption of the DPD in March 2024, the Council states that it is now able to demonstrate a five-year supply of deliverable housing sites with a 20% buffer. Nonetheless, by virtue of the latest Housing Delivery Test, the Council accepts that paragraph 11 d ii) of the Framework is engaged. The appellant does not dispute this position.
44. There are no areas or assets of particular importance that provide a clear reason to refuse the proposed development. In these circumstances, the Framework sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
45. The policies with which the proposal conflicts are largely consistent with the objectives of the Framework to achieve well designed and beautiful places, to protect existing open spaces, to provide safe and suitable access for all users of proposed development, and to minimise the scope for conflicts between pedestrians and vehicles. As such, I apportion significant weight to these identified policy conflicts.
46. The proposal would provide four dwellings and therefore it would contribute to the supply of housing and support the government's objective to significantly boost the supply of homes. As a small site, it could be built out relatively quickly. However, these benefits would be limited by the scale of the development proposed. I therefore attach limited weight to these matters.
47. Further economic benefits would arise during the construction process, but these would be temporary. The proposal would deliver additional household expenditure into the economy, but this would be of a limited scale. Such benefits would attract limited weight.
48. I have found that the proposal would unacceptably harm the provision of open space and would also harm the character and appearance of the area. It also fails to demonstrate that it would not unacceptably harm highway safety and the main water supply.
49. Drawing all of the above together, it is clear that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole.
50. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

J Moore

INSPECTOR



Appeal Decision

Site visit made on 2 May 2024

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2024

Appeal Ref: APP/T4210/W/23/3333657

Land adjacent to 1 Park Avenue, Ramsbottom, Bury BL0 0DA

- 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 Andrew Gaskill against the decision of Bury Council.
 - The application 69884, dated 11 July 2023, was refused by notice dated 3 November 2023.
 - The development proposed is new detached 3 storey house.
-

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 18th June 2024.

Decision

1. The appeal is allowed and planning permission is granted for new detached 3 storey house at land adjacent to 1 Park Avenue, Ramsbottom, Bury BL0 0DA in accordance with the terms of the application, 69884, dated 11 July 2023, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Andrew Gaskill against Bury Council. This application is the subject of a separate decision.

Preliminary Matter

3. The Places for Everyone Joint Development Plan (PfE) was adopted in March 2024. It replaces some policies, or sections of policies, of the Bury Unitary Development Plan (1997) (UDP). Those UDP policies referred to in the Council's decision notice, namely Policy H2/1, H2/2, EN1/2 and HT2/4, have not been replaced but the Council advise that Policy H2/1 is now supported by PfE Policy JP-H3. The views of the main parties were sought on this matter.

Main Issues

4. The main issues in this case are the effect of the proposed dwelling on:
 - 1) the character and appearance of the streetscene;
 - 2) the living conditions of the neighbours at No.76 Bury New Road, with regards outlook and privacy;
 - 3) the integrity of the adjacent adopted highway of Bury New Road; and

4) the free flow of traffic and highway safety.

Reasons

Character and appearance

5. The appeal site comprises land formerly within the curtilage of No.1 Park Avenue (No.1), a semi-detached dwelling, situated on the corner of Park Avenue and Bury New Road. No.1 and its attached pair have recently been remodelled which has included converting the original hipped roof to a gable, new fenestration and a render and grey cladding finish. The semi-detached pair is orientated toward the corner of Park Avenue and Bury New Road and their very contemporary finish and detailing is distinctly different to other dwellings facing Park Avenue.
6. The proposed dwelling would be sited to the side of No.1, similarly facing the corner, but set slightly forward of the front building line of the semi-detached pair. I observed on my site visit that at either end of Park Avenue (on the corners of Bury New Road and Shipperbottom Lane) a semi-detached pair is orientated at an angle, providing a building line or frontage as the corner is returned. I did not, however, find this established layout to create a particularly distinctive sense of place, and the siting of the proposed dwelling would not cause any particular harm to the group of dwellings on the north side of Park Avenue.
7. Because of its corner location, the appeal site is prominent when travelling from the north-west on Bury New Road, including from the Public Right of Way over the motorway bridge. From the north-west, the large steep gable of No.76 Bury New Road is visible behind No.1 and No.3 Park Avenue. The proposed dwelling would be two-storey in height (with a bedroom in the roofspace) and, although offset from its boundaries, it would largely fill the gap between No.1 and the footway along Bury New Road. It would therefore obscure the view of No.76's gable, but the design of the proposed dwelling with a slate appearance pitched roof, simple porch detail and render finish, would complement the adjoining semi-detached pair. It would further have a similar ridge height and massing to its neighbours. Whilst I note that most existing dwellings on Park Avenue and Bury New Road are semi-detached and primarily red-brick with a hipped roof, the proposed dwelling would form part of a small group or composition with No.1 and 3 Park Avenue. Therefore, although prominent, it would not appear intrusive in, or starkly conflict with, the existing streetscene.
8. Consequently, there would be no conflict with saved policies H2/1, H2/2 and EN1/2 of the Bury Unitary Development Plan (1997) (UDP) of PfE Policy JP-H3 because the proposed dwelling is consistent with the principles of good design, has an acceptable standard of layout and makes a positive contribution to the form, quality and distinctiveness of the surrounding area. Further, there would be no conflict with the principles of good design in Section 12 of the National Planning Policy Framework (the Framework) or with paragraph 41 of the National Design Guide (2021) in so far as it advises that well-designed new development should respond positively to the surrounding context beyond the site boundary, including the layout, form, scale, appearance and materials of existing built development.

Living conditions

9. No.76 Bury New Road (No.76) is a semi-detached bungalow facing Bury New Road to the south-east of the appeal site. I observed on my site visit that because of the difference in ground level, the ground floor of No.76 broadly aligns with the first floor of No.1 Park Avenue and there is a significant retaining wall along the common boundary (which would be retained). There is a door on the gable of No.76 facing the appeal site, but the orientation of the windows are toward the front and rear of the bungalow.
10. The proposed dwelling would be sited forward of No.76 (closer to Bury New Road) and there is a difference in opinion between the parties about how far it would be offset from the shared boundary; the Council contend that the separation distance would be only 4.7m, compared to the appellant's 9.8m. Irrespective of this difference, from my observations on site, I am satisfied that the proposed distance from the boundary, and its siting at a lower level, means that the proposed dwelling would not appear uncomfortably close to No.76. Nor, despite being sited around 4m forward of No.76 (closer to Bury New Road), would it result in an undue sense of enclosure. The principal outlook from No.76 would remain to the front and rear of the bungalow, and whilst part of the first floor and roof of the proposed dwelling would be visible from the front windows of No.76, it would be at an oblique angle.
11. At first floor, the proposed dwelling would have a window to two bedrooms that would face the common boundary with No.76. However, the siting of the proposed dwelling forward of the front building line, and its offset from the boundary means that these windows would overlook only the front driveway of No.76. I do not therefore find that there would be overlooking such that there would be a material loss of privacy for these neighbours.
12. For these reasons, I conclude on the second main issue that there would be no harm to the living conditions of the neighbours at No.76. Consequently, there would be no conflict with UPD policies H2/1 and EN1/2 in so far as they require consideration of the relationship of the proposal to the surrounding area and the position and proximity of neighbouring properties. Nor would there be a conflict with paragraph 135 of the Framework which seeks to ensure developments create places with a high standard of amenity for existing and future users.

Highway Integrity

13. The back of the footway along Bury New Road forms the northern boundary of the appeal site and between this and the site itself is a difference in levels, which increases from around 2m to 4m between the front and rear, and an existing retaining wall. The proposed site plan shows that part of this retaining wall (located broadly centrally within the site) would need to be removed to accommodate the proposed dwelling. The Council's concern is that insufficient information has been provided to demonstrate that this could be achieved without affecting the structural integrity of the footway and adopted highway.
14. The details submitted with the planning application show (in section) the rebuilding of the retaining wall in brick, with a traditional strip footing, and a reprofiled embankment behind (up to the footway). The appellant has further provided in their evidence a letter from a Civil Engineer that explains the detail shown in the section. It is not clear from the consultation response from the

Council's Head of Engineering why the submitted information is therefore considered insufficient.

15. The submitted Section Location drawing (dwg no. 21.004-008-A) shows that a limited section of the existing retaining wall would be removed, with the proposed dwelling offset a minimum 2m from the back of the footway and around 4m from the adopted highway. There is sufficient space within the appeal site for the retaining walls to be relocated and rebuilt and the land reprofiled. Subject to a condition controlling the details as submitted, I am not therefore persuaded that the proposals would cause any harm to the integrity of the footway, or highway beyond. Any works to the footway itself would in any event require the approval of the highways authority.
16. Consequently, there would be no conflict with UDP Policy H2/2 which requires new residential development to demonstrate acceptable standards of layout including access for pedestrians and design for safety. UDP Policy HT2/4 relates to car parking and servicing requirements and is not therefore relevant to this main issue.

Car parking

17. The proposed site plan (dwg. No. 21.004-003-A) shows sufficient driveway parking for 3no. cars, accessed from the corner of Park Avenue and Bury New Road (using the original access to No.1 Park Avenue). There is no dispute between the parties that the appeal site can accommodate the required number of car parking spaces, but the Council's concern is that there is insufficient space to leave the site in forward gear. I observed on my site visit that the existing retaining wall (shown as retained) limits the width of the driveway and consequently cars would need to reverse into, or from the site. The footway at the corner of Park Avenue and Bury New Road is relatively wide and the location of the existing dropped kerb means it would be possible to manoeuvre a car to and from Park Avenue (in reverse gear), which is a quiet residential road. There would, therefore, be no need to reverse to or from the busy Bury New Road and consequently no conflict with the free flow of traffic.
18. I note that the consultation response from the Council's Head of Engineering does not raise the parking arrangements for the proposed dwelling as a reason for refusal, rather the loss of parking and adequate access for No.1 Park Avenue. As No.1 does not itself fall within the appeal site, this issue is outside the scope of my consideration.
19. For the reasons given, on the final main issue I conclude that the car parking layout is sufficient to ensure the free flow of traffic and road safety. There would therefore be no conflict with UDP policies H2/2 and HT2/4 which together require new residential development to demonstrate acceptable car parking provision and access.

Other Matters

20. PfE Policy JP-S2 replaces policies EN4, EN4/1, EN4/2 of the UDP which relate to energy conservation. The aim of PfE Policy JP-S2 is to deliver a carbon neutral Greater Manchester no later than 2038, supported through a range of measures including an expectation that new development will, unless it can be demonstrated that it is not practically or financially viable, be net zero carbon, applicable to regulated operational carbon emissions. The Policy outlines that

new development proposals should set out how this can be achieved in an Energy Statement; the absence of which the Council now raise as an issue with this appeal. Whilst I recognise that the emphasis on reducing carbon emissions has increased, the relevant saved UDP policies nonetheless encouraged development which contributed to energy conservation, provision of renewable energy sources and energy efficiency. These UDP policies were not listed, or referred to, in the Council's Delegated Report as being relevant to the application, nor was an Energy Statement requested during determination of the planning application.

21. PfE Policy JP-H4 requires new housing to be delivered at a density appropriate to its location. The Council have referred to the policy seeking a minimum of 50 dwellings per hectare in locations between 400m and 800m of a defined centre, and that the onus is on an applicant to provide the site area for all application sites and how they accord with this policy. The site area (372sqm) for the appeal site was provided in the planning application form and whilst the density would be below the minimum sought, for the reasons given above in respect of the character and appearance, the layout and scale of the proposed development is appropriate to its location.
22. The Council have also alleged a conflict with both PfE Policy JP-G7 (Trees and Woodland) and Policy JP-G8 (A Net Enhancement of Biodiversity and Geodiversity) and refer to clearance of the site, considered 'abundant with shrubs and trees.' Save the Street Scene images provided in the Council's evidence, which show shrubs beyond the boundary hedge (which would be retained) I have very limited information regarding the number of trees on site, or the baseline biodiversity value. The site had been cleared by the time of my site visit and no trees are identified on the Site Survey, or referred to in the planning application form. On the evidence before me, it is not therefore possible to determine whether there is a conflict with PfE Policy JP-G7 12) in so far as it requires each tree lost to be replaced by two new trees. Nor is it possible to determine whether there would be any harm to biodiversity and therefore a conflict with PfE Policy JP-G8. The mandatory requirement of providing a 10% minimum net gain to biodiversity is not applicable to this case.
23. For the reasons given above, none of these other matters raised by the Council, lead me to form a different conclusion to the one above.

Conditions

24. A set of suggested conditions was submitted by the Council which the appellant has seen and commented on. I have used these as the basis for those I have imposed, having regard to the advice on the use of conditions in the Framework and Planning Practice Guidance.
25. In addition to the standard implementation condition, I have imposed a condition that specifies the approved drawings in the interests of certainty. As the proposed materials are specified on these approved drawings, I do not find it necessary to require samples and further full details of all materials to be used on external surfaces to the submitted to and approved by the local planning authority. To ensure good design and the appearance of the site, I have, however, imposed a condition requiring the provision, and thereafter, retention of the bin store shown on the approved site plan.

26. In the interests of minimising risks from potentially contaminated land, I have imposed conditions requiring an assessment of the risk posed by any contamination to have been submitted to and approved in writing by the local planning authority before the commencement of any works; and if contamination is identified that no works should begin until submission and approval in writing of a detailed remediation scheme. In the interest of minimising flood risk, I have imposed a condition that the development must include provision of a potential SuDs option for surface water drainage.
27. For the reasons given in respect of the third main issue, I do not find it necessary to impose a condition requiring an 'Approval in Principle' for the proposed replacement retaining structure on the Bury New Road boundary. The details of these are controlled by the condition specifying the approved drawings. In the interests of highway safety, given the proximity to Bury New Road, I have however imposed a condition requiring the submission and approval of a Construction Management Plan which would also include a photographic dilapidation survey of the footway and carriageways abutting the site in the event remedial work is required.
28. The Council have suggested a condition which would remove Classes A to G of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) which includes the enlargement, improvement or other alterations of a dwellinghouse, additions and other alterations to the roof, porches and buildings incidental to the enjoyment of a dwellinghouse. The Council have provided no justification for such as extensive removal of national permitted development rights and consequently, having regard to paragraph 54 of the Framework, the suggested condition has not been imposed.
29. To ensure compliance with PfE Policy JP-H3 the Council have suggested a condition requiring the dwelling to be designed and built in accordance with optional Part M4(2) 'Accessible and adaptable dwellings' of Building Regulations. I agree that such a condition is necessary, but to reflect the requirement of PfE Policy JP-H3 I have amended the Council's suggested wording. The Council have also suggested a condition requiring the provision of 1 Electric Vehicle charge point. However, as Part S of the Building Regulations is now in effect this condition is not necessary.

Conclusion

30. For the reasons given above, I conclude that the appeal should be allowed.

R Jones

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing no. 003 Rev. A: Proposed Site Plan; Drawing no. 001 Rev. A: Proposed Plan and Location Plan; Drawing no. 002 Rev. A: Proposed Elevations; Drawing no. 005 Rev. A: Existing and Proposed Block Plan; Drawing no. 004 Rev. A: Proposed Street Scene – LPA NOTE: PARTIAL Street Scene Drawing no. 006 Rev. A: Existing and Proposed Street Scene (Black and White); Drawing no. 006 Rev. A: Existing and Proposed Street Scene (Coloured); Drawing no. 008 Rev. A: Existing and Proposed Section Location; Drawing no. 009 Rev. A: Existing and Proposed Site Section C-C; and, Drawing no. 011 Rev. A: Existing Topographical Survey.
- 3) The bin store facilities shown on the approved site plan (Drawing no. 003 Rev. A) shall be implemented and made available for use prior to the first occupation of the development hereby approved and thereafter maintained.
- 4) The dwelling hereby approved shall be designed and built in accordance with the accessible and adaptable standard in Part M4(2) (Accessible and adaptable dwellings) of the Building Regulations, unless it can be demonstrated to the satisfaction of the Local Planning Authority that specific site conditions make this impractical.
- 5) No development shall commence unless and until:-
 - i. A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
 - ii. Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
 - iii. Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority. These works shall be undertaken in accordance with any approved details.
- 6) Following the provisions of Condition 5) of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and a Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
- 7) The development hereby approved shall be carried out in accordance with a surface water drainage scheme which shall be based on the hierarchy of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for

Sustainable Drainage Systems (March 2015). This must include provision of potential SuDS options for surface water drainage. The drainage scheme shall be implemented prior to first occupation and thereafter maintained.

- 8) No development shall commence until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and agreed in writing with the Local Planning Authority and shall include the following:
- i. Photographic dilapidation survey of the footways and carriageways abutting the site in the event that subsequent remedial works are required following construction of the development and as a result of any statutory undertakers connections to the new dwelling;
 - ii. Access point for construction traffic from the adopted highway;
 - iii. Site hoardings (if proposed) clear of the adopted highway and the visibility splay;
 - iv. Parking on site (or on land under the applicant's control) of operatives' and construction vehicles together with storage on site of construction materials, including any requisite phasing of the development to accommodate this;
 - v. Measures to ensure that all mud and other loose materials are not spread onto the adjacent adopted highways as a result of the groundworks operations or carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the construction period. The areas identified shall not be used for any other purposes other than the parking of vehicles and storage of demolition/construction materials. All highway remedial works identified as a result of the dilapidation survey shall be implemented to the written satisfaction of the Local Planning Authority prior to the development hereby approved being occupied.



Appeal Decision

Site visit made on 16 July 2024

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2024

Appeal Ref: APP/T4210/W/24/3340518

Land south of former Ainsworth Nursing Home, Ainsworth, Radcliffe, Bolton BL2 5PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Stuart Alderson against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70163.
 - The development proposed is agricultural building.
-

Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. I have taken the address and the description of the proposed development from the Council's decision notice as it more succinctly describes the proposed location and development.
3. Amended plans were submitted during the course of the application, which repositioned the proposed agricultural building approximately 22m from the nearest residential property, The Bungalow, turning it through 90 degrees and reducing its width from 11m to 9m. I have determined the appeal on this basis.
4. The Town and Country Planning (General Permitted Development) England (Amendment) Order 2024 (2024 Amendment) came into force on 21 May 2024. However, the amendments to Class A do not apply in this instance and do not affect my consideration of this appeal. Consequently, I have not invited further comments from the parties.
5. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), under Article 3(1) and Schedule 2, Part 6, Class A, relate to development which is to be carried out on agricultural land comprised in an agricultural unit of 5 hectares or more, and for development which is reasonably necessary for the purposes of agriculture within that unit. There is no dispute that the proposed development is reasonably necessary for the purposes of agriculture or that the site is part of an agricultural unit greater than 5 hectares. On the evidence before me, I see no reason to disagree with this.
6. Where it is determined that development falls within the scope of these provisions, and any limitations are met, sub-paragraph 2 of paragraph A.2

requires an application to be made to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building. My determination of this appeal has been made on the same basis.

7. On March 21, 2024, after the appeal was submitted, the Council adopted the Places for Everyone Joint Development Plan Document (the PfE) as part of their Development Plan. Policies JP-G1 and JP-G9 of the PfE have superseded Policies EN9/1 and OL1 of the Bury Unitary Development Plan (1997) (UDP). The principle of development is established by the GPDO and the provisions of Schedule 2, Part 6, Class A of the GPDO do not require regard to be had to the development plan or the National Planning Policy Framework (the Framework). I have had regard to the Framework, these policies and the policies referenced in the evidence before me in so far as they are material considerations relevant to matters of siting, design and external appearance.

Main Issue

8. The main issue is whether the proposal would satisfy the detailed prior approval matters including the effect of its siting, design and external appearance on the living conditions of nearby occupants, with regard to outlook, and noise and disturbance.

Reasons

9. The appeal proposal would be located in part of an agricultural field, to the east of an access road to the former Ainsworth Nursing Home, and south of a residential building known as The Bungalow. The former nursing home has been converted to residential use. There are currently three residential properties at the site, with two further dwellings approved and two more currently under consideration through the planning appeal process. To the south of the proposal, at some distance, lie a row of cottages. The surrounding area is largely open and agricultural.
10. The plans indicate that the proposed building would be 27.5m long and 9m wide, with a ridge height of 6.5m and eaves height of 5m. It would be constructed from concrete panels and green steel sheets, and would be of a single apex design with overhang on the proposed open side. Whilst the proposal would be visible from long range views and from a public right of way to the east, it would be a functional agricultural building, and would not be incongruous or uncharacteristic within the rural setting. It would be viewed against the backdrop of existing buildings and as such would not appear as isolated or conspicuous.
11. However, the proposal would be sited approximately 22m from the nearest elevation of The Bungalow. Whilst the proposed building would be parallel to the road, it would be sited directly to the south of The Bungalow. The proposal's 9m wide side elevation would face the residential property and extend for the majority of the width of the residential dwelling, which is itself approximately 10m in width.
12. I acknowledge that the proposal would be set slightly lower than The Bungalow, and that the main aspect of The Bungalow would not face the barn. However, the proposal would be located in proximity to the rear garden of the

- residential dwelling, which has windows in its elevation facing the proposed agricultural building.
13. Other neighbouring properties would be situated further away from the proposed agricultural building, and I do not consider that the living conditions of their occupiers would be harmed by the proposal with regards to outlook. However, the close proximity to The Bungalow caused by the siting of the proposed building would harm the living conditions that the occupiers of The Bungalow benefit from. In particular, their enjoyment of the rear garden would be diminished by its presence as an imposing building. Given the siting and scale of the proposal, it would impose a significant bulk of built development that would result in an overbearing and obtrusive impact on the users of The Bungalow's outside space and when viewed from the property's windows facing the proposal.
 14. Whilst planting along the boundary would screen the building to some degree, the building would still be visible from the residential property. I acknowledge that fencing and trees were originally in place along the boundary, which would have more effectively screened the proposal. However, I must determine the appeal on the situation before me. Further landscaping would take time to establish, and I am not persuaded that it could provide a fully effective screen, particularly in the winter months.
 15. The building would be used for the storage of livestock fodder and agricultural equipment. As the field is already in agricultural use, it is likely that neighbouring dwellings would already be subject to some level of noise from tractors and agricultural machinery. Furthermore, in rural areas such as this, farming activities and associated noise and disturbance are commonplace. The appellant has indicated that during the summer there would be no increase on the approximately 120 journeys already undertaken both ways from the fields to the farmyard. During the winter hay bales would be moved from the barn, which would involve a tractor and pick-up trailer and would take approximately 60 minutes per week. Neighbouring residents would themselves undertake vehicular journeys, which would lead to some level of noise and disturbance to other neighbours. Consequently, I consider that the proposal would not unacceptably harm the living conditions of neighbouring occupiers with regard to noise and disturbance.
 16. As such, whilst I conclude that the effect of the proposal's siting, design and external appearance proposal would not be unacceptable as regards noise and disturbance, it would have an unacceptable effect on the living conditions of nearby occupiers with regard to outlook. As a result, it would be contrary, as far as they are material considerations, to paragraph 135 of the Framework and OL4/5 of the UDP which seek to ensure, amongst other matters, that development does not harm the amenity of nearby residents.
 17. Whilst the Council have referenced Policies JP-G1 and JP-G9 of PfE and Policies OL1/2 and OL7/2 of the UDP and Supplementary Planning Document 8 – New Buildings in the Green Belt, these relate to Green Belt and landscape designations. I do not consider that they are directly relevant to the siting, design and appearance of the proposal in relation to the living conditions of neighbouring occupiers, and as such I have not regarded them as material considerations in my decision.

Other Matters

18. I note that the site is in Green Belt and designated under the UDP as a Special Landscape Area, and is located within the West Pennine Moors. However, these are not matters for consideration under Schedule 2, Part 6, Class A of the GPDO.
19. From the evidence before me, the former Ainsworth Nursing Home is considered to be a non-designated heritage asset (NDHA). The original buildings date from the early twentieth century and were built to create a smallpox isolation hospital. 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.
20. The council has not raised concerns regarding the impact of the proposal on the NDHA. The site's remaining heritage buildings are well screened by trees, which have a group tree preservation order. Furthermore, the proposal would be viewed in relation to The Bungalow, which is a more modern addition to the site. For these reasons, I also find that the siting, design and external appearance of the proposed development would not be harmful to the NDHA.
21. I recognise that there are UDP policies which may support the proposal. However, as mentioned earlier, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 6, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to policies only in so far as they are material considerations relevant to matters of siting, design and external appearance.
22. I acknowledge that there is some support for the proposal and that it is needed for an agricultural use. The appellant's farming business has grown, and the appellant wants to evolve the business in a sustainable manner. Furthermore, the proposal would also help to guard against the theft of farm machinery and equipment. I recognise that decisions should be consistent and language unambiguous. I also appreciate the efforts that the appellant has made to address concerns, such as reducing the footprint of the proposal, reorientating it and moving it further from The Bungalow. Despite all these matters, I am required to assess the proposal on its own merits having regard to its siting, design and external appearance. Having done so in this case, I have found that the proposal would be unacceptable for the reasons set out.

Conclusion

23. For the reasons given above, the appeal should be dismissed.

L C Hughes

INSPECTOR



Appeal Decision

Site visit made on 11 June 2024

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st July 2024

Appeal Ref: APP/T4210/D/24/3340383

1 Pitt Street, Radcliffe, Bury M26 3TF

- 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 Mr Ray Ellis against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70189.
 - The proposed development was originally described as balcony on roof of extension with a toughened obscure glazed balustrade with stainless steel post and top rail at 1100mm high.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form indicates the development was completed, and I was able to see this during my site visit. I have determined the appeal on that basis, as did the Council. Further to a request made by the Council I undertook an 'Access Required Site Visit' to a neighbouring property 23 Crossfield Drive.
3. On 21 March 2024, after the appeal was submitted, the Council adopted the Development Plan Document "Places for Everyone" (DPD). In the interest of natural justice and to ensure neither of the main parties were prejudiced by this matter, I offered an opportunity for the main parties to comment on this matter. No further comments were made.

Main Issues

4. The main issues are the effect upon the living conditions of neighbouring occupiers, with particular regard to privacy, noise and disturbance; and if any harm arises, whether there are material considerations, including personal circumstances, that outweigh such harm.

Reasons

5. The appeal site is within a residential area. The appeal property (No 1) and its semi-detached neighbour at No 3 are dormer bungalows. Due to the development pattern of the area, the rear elevations and/or gardens of properties along Crossfield Drive (odd numbers) face towards the flank and/or rear elevation of No 1.
6. The balcony is accessed from patio doors serving a bedroom in the rear dormer and occupies the flat roof of an existing single storey rear extension (the extension). Although the extension does not occupy the full width of the rear

- elevation, it projects to a significant depth, such that it forms an area of about 20m², with a modest lantern window in the centre serving the extension below.
7. Due to its siting, sheer scale, depth and width, the balcony enables an extremely wide angle of view towards the rear of properties along Crossfield Drive. Such views include those of rear gardens at an elevated position, and also through windows within rear elevations serving bedrooms. Direct views are also available into the rear garden of the adjoining neighbour at No 3.
 8. The most direct views are available towards No 23 Crossfield Drive, which has a modest rear garden with a boundary just 3m from the balcony. During my visit I was able to see the reciprocal view from within the two rear bedrooms serving No 23, which confirmed that views from the balcony were uncomfortably close.
 9. Consequently, the degree of overlooking from the balcony to neighbouring properties is significant. This is not adequately mitigated by the use of an obscurely glazed panel balustrade of 1.1m height, creating an unacceptable reduction in privacy for neighbouring occupiers.
 10. The appellant suggests that issues of overlooking are irrelevant as the appeal property with its extension pre-dates the construction of nearby properties along Crossfield Drive, and at the time those properties were first occupied, only a post and rail fence was in place at the rear boundary. Furthermore, the appellant claims that views of the adjoining neighbour's rear garden were always available from the bedroom window within the rear dormer of the appeal property. As such, the appellant maintains that there has always been an overlooking relationship to nearby properties.
 11. However, this position fails to take account of the fact that it is the subsequent use of the flat roof of the extension as a balcony that has fundamentally altered the relationship with neighbouring properties. Moreover, the reciprocal angle of view from a window within the first floor of properties is markedly more restricted compared to views from a balcony, even more so in comparison to a balcony of such a scale as that before me.
 12. The appellant claims that the obscure screen would obstruct reciprocal views between the rear dormer windows of the appeal property and those directly opposite, compared to the view without it. In this regard, I agree, but this does not justify the adverse harm that arises from the use of the roof of the rear extension as a balcony, nor has it been demonstrated that this is the only way to achieve any further desired levels of privacy.
 13. The fact of the matter is that the use of the roof above the rear extension as a balcony significantly changes the privacy relationship with neighbouring properties, such that the scope for overlooking is considerably increased to the extent that the privacy of neighbouring occupiers is unacceptably diminished.
 14. Due to its sheer size, the balcony is capable of accommodating a large number of people. The appellant's submissions state that no lighting is installed on the balcony. However, during my visit I saw that the balcony included power supply points and some very limited solar lighting around various ornamental displays. Consequently, the proposed development could give rise to noise and disturbance from activities on the balcony, as well as disturbance from external lighting.

15. The appellant states that the intended use of the balcony is a tranquil and peaceful space for existing occupiers and is willing to accept conditions to control such matters, although no proposed condition is before me. While a breach of such a condition would not be impossible to detect, it would be unreasonably onerous to do so.
16. I therefore conclude that the proposed development would unacceptably harm the living conditions of neighbouring occupiers, with particular regard to privacy, and noise and disturbance. It conflicts with Saved Policies H2/3 and EN7/2 of the Bury Unitary Development Plan 1997, and the guidance within Supplementary Planning Document 6: Alterations and Extensions to Residential Properties. Taken together, these policies and guidance seek to ensure that house extensions and alterations do not unacceptably harm the amenities of neighbouring occupiers.

Other material considerations

17. The appellant's appeal submissions refer to personal health circumstances of the appellant, and the need to access fresh air in the event of a need to isolate from others, including members of his family.
18. I have therefore had regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Age and disability are relevant protected characteristics to which the PSED applies. Article 8 of the HRA requires that decisions ensure respect for private and family life and the home. However, these are qualified rights whereby interference may be justified in the wider public interest.
19. The purpose of the proposal would be a positive consideration, in terms of eliminating discrimination against persons with the protected characteristics of age and/or disability, advancing equality of opportunity for those persons, and fostering good relations between them and others.
20. Although I am sympathetic to the appellant's personal health circumstances, it has not been demonstrated that the proposed development is the only way of meeting the personal health needs of the appellant, nor that it would represent the least harmful option.
21. I am therefore satisfied that the PSED considerations and appellant's personal circumstances do not outweigh the unacceptable harm that I have identified and that if I were to dismiss the appeal, it would be a necessary and proportionate approach to the legitimate aim of protecting the living conditions of neighbouring occupiers and their families, in the wider public interest.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

J Moore

INSPECTOR



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: 12 August 2024

Appeal A Ref: APP/T4210/W/24/3343988 Pavement o/s 46 Haymarket, Bury BL9 0BX

- 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 70422.
 - The development proposed is the installation of a multifunctional communication hub including a defibrillator and advertisement display, as illustrated in the attached documentation.
-

Appeal B Ref: APP/T4210/H/24/3343989 Pavement o/s 46 Haymarket, Bury BL9 0BX

- 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 70423.
 - The development proposed is the installation of a multifunctional communication hub including a defibrillator and advertisement display, as illustrated in the attached documentation.
-

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 Council's Statement of Case confirmed that the adoption of the PfE would not alter their decision, and 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.
5. The proposal relates to the setting of nearby listed buildings and the appeal site is within the Bury Town Centre Conservation Area. Accordingly, in relation to Appeal A, I have had regard to the statutory duties set out in Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

6. The main issues in respect of Appeal A are the effect of the proposal on:
 - the character and appearance of the streetscene and the Bury Town Centre Conservation Area.
 - the setting of nearby Listed Buildings, and on non-designated heritage assets.
 - pedestrian safety, and the active travel aspirations of the Council.
 - the wider strategy for the need for, and provision of, defibrillators throughout the Borough.
7. 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

8. The appeal site is an area of pavement, outside No.46 Haymarket, located to the north of the western entrance of the Mill Gate Shopping Centre and within the Bury Town Centre Conservation Area (the CA). Market Street (and Haymarket) are single carriageway at this point, which restricted vehicular access between 10am and 4pm, with wide pavements giving pedestrian priority. Both sides of the road are characterised by long parades of commercial premises with a mix of predominantly restaurant, café and leisure uses.
9. It is proposed to install a freestanding multi-functional communication hub measuring around 2.6m in height and 1.3m wide. The hub would provide a touch screen and defibrillator on one side and an LCD advertisement screen on the other side. The proposed hub would be sited around 3.3m from the road, broadly in line with a bollard (one of three) adjacent a pedestrian crossing. Although the appellant describes the siting of the proposed hub as within a 9.3m wide section of highway (pavement) I observed on my site visit that there is an external seating area for No.46 Haymarket (No.46) (Bap sandwich shop, and the adjoining units) which extends the depth of the canopy of the Mill Gate Shopping Centre. The width of the pavement is therefore much narrower in this location than suggested.

10. The CA covers the historic core of central Bury focusing around the junction of Market Place, Bolton Street, Silver Street and The Rock. 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. Taken on its own, by reason of its nature and extent, the appeal site makes only a limited contribution to the character and appearance of the CA and thereby to its significance as a designated heritage asset. Nonetheless, the wider public realm in this location, notably the generous pavements, provides a sense of spaciousness which allows the surrounding townscape and large street and pavement trees to be better appreciated. This contributes positively to the character and appearance of the CA as a whole and thus to its significance as a designated heritage asset.
12. Within the immediate vicinity of the appeal site, I observed various existing street furniture, including the columns and bollards/fencing associated with the pedestrian crossing, a bin and bicycle stands. The canopy and entrance feature (within supporting columns) of the Mill Gate Shopping Centre overhangs a length of the pavement in this location, and a lighting column adjacent No.46 and information board with fingerpost sign are sited to the south of the appeal site; neither identified on the Proposed Site Plan. The proposed hub would be relatively tall and wide with a projecting canopy formed of a solid rectangular design and would markedly increase the visual presence of street furniture within the pavement; as described, already a busy space.
13. Furthermore, given its proposed siting across the pavement, so perpendicular to the road, it would reduce both visual permeability up and down Market Street and the characteristic sense of spaciousness I have described. Although it would be partially obscured by an existing pavement tree when viewed from the north, I nonetheless find the proposed hub would appear unduly prominent and incongruous in the streetscene to the detriment of the character and appearance of the CA.
14. I have identified harm to the CA as a result of the proposal. Paragraph 205 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. Given the scale of the proposals relative to the CA, I find that the harm would be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
15. I recognise that the proposed communications hub would offer a range of benefits, including a defibrillator, 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. I also recognise 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, or that they provide a public benefit, but I am not persuaded that the delivery of these is dependent on the scheme before me. Therefore, overall, the weight that I ascribe to the

public benefits that would accrue from the proposal is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found.

16. I therefore conclude on the first main issue that, in respect of Appeal A, the proposal would fail to preserve or enhance the character and appearance of the CA, contrary to the requirements of Section 72(1) of the Act and the relevant provisions of the Framework, PfE policies JP-P1 and JP-P2 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, and conserves the historic environment.
17. 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.

Listed Building – Appeal A

18. The Kay monument is Grade II listed and is sited within landscaped gardens, around 70m to the south of the appeal site. Derby Hall, 18-20 Market Street and 12-16 Market Street are Grade II listed buildings, located to the north, either side of Market Street.
19. Although acknowledging the location of the listed buildings, the planning application submission did not identify the significance of these buildings and I have no evidence before me on this matter. In that they are statutorily listed, the special interest and significance will be derived, at least in part, by their historic and architectural interest as well as from their setting. I observed on my site visit that the immediate surrounding areas of public realm – notably the wide paved areas and landscaped gardens – has a visual connection to these heritage assets, as it is from that position where they are best appreciated.
20. Beyond this, I observed that the surrounding area is made up of built form and public realm of varying age, form and quality. This includes the appeal site. In this particular case, the surrounding development has altered how the various assets would have been experienced and thus has moderated the contribution the wider setting makes to its special interest and significance. There is some limited intervisibility along Market Street between the appeal site, Kay monument and those listed buildings on Market Street to the north. However, these views are filtered by trees along the pavement and the position, scale and nature of the proposed communication hub, means that the visual, function and physical relationship between the appeal site and designated heritage assets would be maintained. The historic and architectural interest of these assets would also remain unaffected.
21. For the same reason, the proposal would not affect the setting of the non-designated heritage assets identified by the Council, namely the Former George Hotel and 28-30 Haymarket.

22. I therefore conclude that, despite the absence of a Heritage Assessment in support of the proposals, the proposed communication hub would preserve the setting of the nearby designated and non-designated heritage assets, causing no harm to significance. Consequently, the proposal would accord with the requirements of Section 66(1) of the Act, the relevant provisions of PfE Policy JP-P2 and UDP Policy EN1/2. Together these seek to ensure development does not have an unacceptable adverse effect on townscape, conserves heritage assets and their setting. It would further comply with the guidance at Section 16 of the Framework in respect of conserving and enhancing the historic environment.

Public safety – both appeals

23. The proposed communication hub would be sited in a currently open area of pavement, close to the entrance of the Mill Gate Shopping Centre. Because of this siting and its size, around 2.6m high and 1.3m wide, it would obstruct some lines of sight along the pavement in an area busy with pedestrians using both the pedestrian crossing on Market Street and the entrance to the shopping centre. The proposed hub would also be sited in an area of the pavement which, as a result of external seating associated with No.46 Haymarket, is narrower and more constrained than suggested by the appellant.

24. However, I observed that the pavement would remain wide enough in this location so that, in practice, pedestrians could see adequately in either direction along Market Street, and there would be sufficient room to easily and safely pass the proposed hub. Even in the event of pedestrians congregating to use the proposed hub, I am therefore satisfied it would not present an obstruction to pedestrian flow or movement, including those with mobility impairment, such that it would be to the detriment of safety.

25. 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.

26. I therefore conclude on the third 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.

27. 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

28. 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.
29. 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.

Conclusion

Appeal A

30. The proposal would have an acceptable effect on the setting of nearby designated and non-designated heritage assets, pedestrian safety and defibrillator provision. However, this does not outweigh the harm to character and appearance that has been identified to the streetscene and Bury Town Centre Conservation Area. The appeal is therefore dismissed.

Appeal B

31. 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



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.
-

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.
-

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 PFE 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