

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	17 December 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 Lodged
between 16/09/2024 and 06/12/2024**



Application No.: 70776/FUL

Appeal lodged: 04/10/2024

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Refuse

Applicant: In Focus Ltd

Location: Pedestrian area adj 2 Central Street/4 Clerke Street, The Rock, Bury, BL9 0JN

Proposal: Installation of multifunctional communication hub including defibrillator and advertisement display

Application No.: 70777/ADV

Appeal lodged: 04/10/2024

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Refuse

Applicant: In Focus Ltd

Location: Pedestrian area adj 2 Central Street/4 Clerke Street, The Rock, Bury, BL9 0JN

Proposal: Internally illuminated advertisement display comprising of LCD portrait screen integrated into communication hub

Application No.: 71023/FUL

Appeal lodged: 28/10/2024

Decision level: DEL

Appeal Type: Informal Hearing

Recommended Decision: Refuse

Applicant: Sonalight Living Ltd

Location: 1-5 Porter Street, Bury, BL9 5DZ

Proposal: Part change of use of former showroom/laundrette and 1no. flat (Use Class E/Sui Generis/Class C3) to form 1no. 7 bedroom (single occupancy) HMO (Sui Generis) and 1no. 8 Bedroom (single occupancy) HMO (Sui Generis) with associated parking and refuse storage and external alterations

Total Number of Appeals Lodged: 3

**Planning Appeals Decided
between 14/09/2024 and 06/12/2024**



Application No.: 70229/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Bernard Booth

Location: Saw Mills, off Spring Street, Ramsbottom, Bury, BL0 9JQ

Proposal: Change of house type application for 68578 to remove dormers, increase the eaves heights to all house types, increase the width of the porches and internal alterations

Appeal Decision: Dismissed

Date: 24/09/2024

Appeal type: Written Representations

Application No.: 70426/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: In Focus Ltd

Location: Pavement outside 61 The Rock, Bury, BL9 0NB

Proposal: Installation of 1no. multifunctional communication hub including defibrillator and advertisement display

Appeal Decision: Dismissed

Date: 25/10/2024

Appeal type: Written Representations

Application No.: 70443/ADV

Decision level: DEL

Recommended Decision: Refuse

Applicant: In Focus Ltd

Location: Pavement outside 61 The Rock, Bury, BL9 0NB

Proposal: Advertisement consent for display integrated into multifunctional communication hub unit

Appeal Decision: Dismissed

Date: 25/10/2024

Appeal type: Written Representations

Application No.: 70446/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: West

Location: 313 Holcombe Road, Tottington, Bury, BL8 4BB

Proposal: Change of use of land at side to extend residential curtilage together with extension of existing yard area to the side and erection of 1.8 metre high boundary fence and wall; Single storey extension at side

Appeal Decision: Allowed

Date: 27/09/2024

Appeal type: Written Representations

Application No.: 70679/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Northlet Management Ltd

Location: Heaton House, Brierley Street, Bury, BL9 9HN

Proposal: Alterations to first floor to combine two existing House in Multiple Occupation units (HMO) into one 6 bedroom (single occupancy) House in Multiple Occupation (HMO)

Appeal Decision: Allowed

Date: 25/10/2024

Appeal type: Written Representations

Application No.: 70710/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr A Khan

Location: Performance House, Heywood Street, Bury, BL9 7DZ

Proposal: Change of use of part car showroom (Sui Generis) to retail (Class E(a))and
office (Class E(g)(i)) single storey extension and external alterations

Appeal Decision: Dismissed

Date: 30/10/2024

Appeal type: Written Representations



Appeal Decision

Site visit made on 21 October 2024

by **SRG Baird BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 October 2024

Appeal Ref: APP/T4210/W/24/3347647

Heaton House, Brierley Street, Bury BL9 9HN

- 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 Northlet Management Limited against the decision of Bury Metropolitan Borough Council.
- The application Ref 70679, dated 19 April 2024, was refused by notice dated 11 June 2024.
- The development proposed is the combining of 2 HMO units into one HMO unit to achieve an additional bedroom and increase bin provision to accommodate increased occupancy.

Decision

1. The appeal is allowed, and planning permission is granted for the combining of 2 HMO units into one HMO unit to achieve an additional bedroom and increase bin provision to accommodate increased occupancy at Heaton House, Brierley Street, Bury BL9 9HN in accordance with the terms of the application, Ref 70679, dated 19 April 2024, and the plans submitted with it, subject to the following conditions:
 - 1) the development hereby permitted shall begin no 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 Nos. GSS23152-004 Rev 1 Site Block Plan; GSS23152-003A Proposed Ground Floor Plan and GSS23152- 003B Proposed First Floor Plan.
 - 3) Prior to the first occupation of the additional bedroom unit hereby permitted, the parking and refuse provision shown on Drawing No. GSS23152-004 Rev 1 Site Block Plan and specified in the Planning Statement shall be provided and thereafter retained.

Main Issues

2. The implications for (a) the living conditions of existing and future occupiers and, (b) the safe operation of the adjoining highway network.

Reasons

3. The development Plan includes, the Bury Unitary Development Plan (UDP) adopted 1997 and the joint spatial plan Places for Everyone adopted 2024. Of the various policies referred to UDP Policy H2/4 is the most relevant. When considering HMO proposals, Policy H2/4 lists, amongst other things, that the amenity of occupants and car parking/servicing are key factors to be considered. Also relevant are Development Control Policy Guidance Note 13 (DCPGN) – Conversion of Buildings to Houses in Multiple Occupation 2007 and DCPGN 11 – Parking Standards 2007. DCPGN 13 says that the increased occupancy of a building for HMO purposes

should, amongst other things, provide an acceptable standard of accommodation for occupants and provide appropriate levels of car parking and service facilities. Neither the UDP nor the DCPGNs provide objective measures to test the proposal against.

Living Conditions

4. The Council's Houses in Multiple Occupation Guidance and Amenity Standards - August 2024 shows that a single occupancy combined bedroom/living room should have an area of 10 sq.m, and the minimum size for a combined kitchen/dining area to serve 6 to 10 people should be 19.5 sq.m. Given that the guidance relates to amenity standards, it is reasonable to assume that the figures quoted are considered by the Council to provide acceptable level of amenity. The additional bedroom would have an area of some 14.7 sq.m and the combined kitchen/dining room would have an area of some 24.1 sq.m. In this context, the additional use of the kitchen by one person would not result in an unacceptable standard of accommodation being provided.

Parking

5. There are no specific car parking standards for HMOs in either the UDP or DCPGN 13. The lpa accepts that HMOs tend to have a lower level of car usage than other residential uses and that dedicated car parking for HMOs is not always provided. Heaton House has a gated off-street parking area with 9 spaces marked out. There is an internal cycle store capable of holding up to 11 bicycles and the car park has 6 bike stands capable of accommodating up to 12 bicycles. In the absence of any objective standard regarding bicycle storage this provision appears to be adequate. Whilst on-street parking in the wider area is intensively used, spaces were available. I acknowledge that at other times, particular in the evening, demand for parking would increase. However, there is nothing in the lpa's submissions to suggest that the existing use results in pressure on on-street parking that results in a highway hazard or that the addition of one unit would materially change this position.

Other Matters

6. The proposal includes the provision of large capacity recycling bins (4) and general waste bins (6). There is no reason to conclude that this provision would be inadequate. Provision and retention could be conditioned.

Conclusions

7. The addition of one resident would not unacceptably affect the living conditions for existing/future residents or highway safety and there is no conflict with the development plan when read as a whole. The appeal is allowed.

Conditions

8. In the interests of certainty, a condition specifying the approved plans is imposed. In the interests of highway safety and the living conditions of residents, a condition requiring the implementation of the car parking and refuse provision is reasonable and necessary.

George Baird

Inspector

Appeal Decision

Site visit made on 10 September 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

Appeal Ref: APP/T4210/W/24/3346341

Saw Mills off Spring Street, Ramsbottom, Bury BL0 9JQ

- 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 Bernard Booth against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70229.
 - The development proposed is the demolition of the existing sawmill and associated out-building and the construction of 4no 3 bed terraced houses and 1no 3 bed detached house.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the Council's decision notice and the appellant's planning application form differs. I have not been made aware that the appellant agreed to the change and therefore, I have used the original description of development in the banner heading above.
3. The Places for Everyone Joint Development Plan Document ("Pfe")¹ was adopted in March 2024. Accordingly, the Council has advised that Policies JP-H1, JP-H3, JP-H4, JP-S2, JP-C2, JP-P1, JP-P2, JP-S4, JP-G7, JP-G8 and JP-C5 of the Pfe are also applicable to the appeal. It is mandatory for me to take account of the most relevant and up to date information in reaching a decision, therefore I have dealt with the appeal on this basis. The appellant has had the opportunity to comment upon the Pfe and has therefore not been prejudiced.

Background and Main Issues

4. Planning permission² was granted in July 2023 for the construction of 5 dwellings at the appeal site. The appeal proposal seeks various changes to the approved scheme. From the evidence before me, the Council's sole concern is regarding the design of the proposed dwellings.

¹ Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022-2039

² Planning Ref 68578

5. The Council's decision notice included one reason for refusal. However, following the adoption of the PfE, they have advised that the proposal would also conflict with PfE Policy JP-H3 regarding Nationally Described Space Standards³ ("NDSS") and PfE Policy JP-H4 regarding the efficient use of land.
6. Consequently, the main issues are:
 - (a) the effect of the proposal on the character and appearance of the surrounding area, including the significance of the Ramsbottom Conservation Area ("the CA") and its setting;
 - (b) the effect of the proposal on the living conditions of future occupiers, with particular reference to internal space; and
 - (c) whether the proposal would achieve an efficient use of the appeal site.

Reasons

Character and Appearance

7. The appeal site comprises a former sawmill which, at the time of my site visit, consisted of two detached buildings either side of an access with a yard to the rear. The appeal site is surrounded by dwellings and is located to the rear of two terraces of predominantly two-storey dwellings that front onto Spring Street and Bolton Street.
8. It is proposed to demolish the existing commercial buildings and construct a detached three-storey dwelling and a terrace of four three-storey dwellings. The third storey of the dwellings would be in the roof space.
9. The northeastern corner of the appeal site is within the CA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The remainder of the appeal site is adjacent to the CA.
10. The CA encompasses Ramsbottom town centre and its surrounding streets and open spaces. The part of the CA closest to the appeal site primarily consists of rows of two-storey stone and slate built terraced dwellings abutting the pavements' back edge. The roads between the terraces are narrow, creating an enclosed sense of place. Consequently, the significance of the CA is its historic and aesthetic values.
11. The appeal site buildings, at the time of my visit, were in a dilapidated state with evidence of fire damage to part of the larger stone building. Therefore, the demolition of these buildings would not harm the character, appearance or significance of the CA or its setting.
12. Both house types would have a shallow pitched roof with a large gap between the headers of the first floor windows and the eaves. This would result in a 'top heavy' design that unbalances the character and appearance of each house type. The eaves of the dwellings in the surrounding area either abut the first floor header or are separated from the header by a course of stone. Consequently, the proposed dwellings would not reflect the

³ Technical housing standards – nationally described space standard, published 27 March 2015

characteristics of the existing dwellings in this part of the CA and would appear incongruous with the surrounding area.

13. The Council's Conservation Officer considered the proposal would have a neutral effect on the character and appearance of the CA. However, for the reasons outlined above, I consider the proposal would cause less than substantial harm to the significance and setting of the CA.
14. In accordance with paragraph 208 of the National Planning Policy Framework ("the Framework"), I must weigh the harm against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The proposal would support the Government's objective of significantly boosting the supply of homes. However, the proposal is for five dwellings and therefore, they would make a limited contribution. The proposal would generate some employment during the construction phase. However, this would be for a temporary period and therefore limited.
15. Against these public benefits is the harm I have found to the significance of the CA and its setting which, in compliance with paragraph 205 of the Framework, I must attach great weight. Furthermore, planning permission is extant for a housing development of a similar size on the appeal site. Therefore, I am not convinced that a less harmful form of development could not be undertaken with the same public benefits. Consequently, I do not find that the public benefits would outweigh the less than substantial harm I have identified.
16. In reference to the first main issue, the proposed dwellings would harm the character and appearance of the surrounding area, including the significance of the CA and its setting. It would conflict with Policies EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan, adopted 1997 which, amongst other things, seek to ensure that all new residential development makes a positive contribution to the form and quality of the surrounding area including its character. It would also conflict with Chapter 12 of the Framework that seeks to achieve well-designed and beautiful places.

Living Conditions

17. The Council assert that both House Type A and B would fail to meet the NDSS' minimum gross internal area ("GIA"), and Bedroom 2 of House Type A and Bedroom 3 of House Type B would fail to meet the minimum GIA for a one bedspace bedroom. The appellant has not disputed the Council's figures. I have nothing before me to come to a different view, accordingly, both house types would not comply with the NDSS.
18. In reference to the second main issue, the proposal would harm the living conditions of future occupiers, with particular reference to the internal space of new dwellings. It would conflict with Policy JP-H3 of the PfE which, amongst other things, states that all new dwellings must comply with the nationally described space standards.

Efficient Use of Land

19. PfE Policy JP-H4 sets out the minimum net residential density appropriate to a particular location, reflecting the relative accessibility of a site by walking, cycling and public transport. The Council assert that the location of the

appeal site would require a minimum density of 70 dwellings per hectare, while the proposal would equate to 50 dwellings per hectare. This has not been disputed by the appellant. Policy JP-H4 allows lower densities where they can clearly be justified. However, I do not have any substantive evidence before me to suggest that a higher density of housing in compliance with the policy cannot be achieved.

20. In reference to the third main issue, the proposal would not achieve an efficient use of the appeal site. It would be contrary to Policy JP-H4 of the PfE, the content of which I have already detailed.

Other Matters

21. The appellant asserts that the proposed amendments are required for the dwellings to comply with Part L of Building Regulations regarding an increased standard of thermal insulation. However, the appellant's Statement of Case states, "*amendments to the revised scheme could have been applied in the detailed elevational design to reduce the apparent 'top heavy' appearance*". Consequently, I am not convinced that an alternative design that is compliant with Part L could not be devised without the harm I have identified.
22. I acknowledge that the dormer windows of the previously approved planning application for the appeal site are not a feature of the surrounding CA. However, their omission has resulted in a substandard design.
23. I note the appellant's comments regarding the Council's handling of the planning application. However, this has not prevented me from forming a view on the appeal.

Planning Balance

24. Since the planning application was determined, the Council can now demonstrate a five year supply of deliverable housing sites. However, they concede that they have failed to comply with the Government's Housing Delivery Test. Therefore, paragraph 11(d) of the Framework is applicable which states, planning permission should be granted unless (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
25. The appeal site is partially located in the CA (a protected area defined by Footnote 7 of paragraph 11(d)(i)). I have already found that the proposal would cause less than substantial harm to the CA and the setting of the CA which would not be outweighed by its public benefits. Consequently, this provides a clear reason for refusing the development proposed.

Conclusion

26. For the reasons set out above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR

Appeal Decisions

Site visit made on 20 August 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2024

Appeal A: APP/T4210/W/24/3343991

Pavement o/s 61 The Rock, Bury BL9 0NB

- 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 Nathan Still (Infocus Ltd) against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70426.
 - The development proposed is described as 'installation of a multifunctional communication Hub including defibrillator and advertisement display, as illustrated in the attached documentation.'
-

Appeal B: APP/T4210/H/24/3343992

Pavement o/s 61 The Rock, Bury BL9 0NB

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr Nathan Still (Infocus Ltd) against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70443.
 - The advertisement proposed is described as 'installation of a multifunctional communication Hub including defibrillator and advertisement display, as illustrated in the attached documentation.'
-

Decision

1. Appeals 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. In respect of Appeal A the decision notice refers to Policy EN5/1. The Council have confirmed that this is an error and should refer to Policy HT5/1. The appellant has referred to the policy and I have had sight of it and have considered it in the determination of the appeal.

4. In respect of Appeal B the Council has drawn my attention to Development Plan policies it considers relevant to this appeal, and I have taken them into account where relevant. However, powers under the Regulations¹ to control advertisements may be exercised only in the interest of amenity and public safety, taking account of any material factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) reiterate this approach.

Main Issues

5. The main issues are the effect of the proposal on:
 - the character and appearance of the area (including in relation to the interest of amenity for Appeal B);
 - highway safety with particular regard to pedestrians (including in relation to public safety for Appeal B); and
 - the wider strategy for the need for and provision of defibrillators throughout the Borough (Appeal A only).

Reasons

Character and appearance

6. The appeal site is situated within a pedestrianised area, at the junction of The Rock and Tithebarn Street, that serves a predominantly retail and commercial area in the centre of Bury.
7. Although pedestrianised, the surface materials clearly delineate areas where vehicles can travel within The Rock, which excludes through to Tithebarn Street. The area between the buildings on either corner of the junction is occupied by litterbins, planters, seating, and other street furniture. There is also an existing freestanding permanent advertisement display. Beyond this there are few such features to the northern side of The Rock, as they are grouped in a linear arrangement to the opposite side of the road, beyond where vehicles can travel. This arrangement gives a rhythm to the street scape and prevents clutter in the other areas of the street. These characteristics are therefore important to the amenity of the area, including its character and appearance.
8. While the proposal would be sited close to the planter, advertisement and other street furniture at the junction of Tithebarn Street and The Rock, it would be positioned forward of the buildings to either side, within the area delineated primarily for pedestrians. The proposal would therefore introduce a prominent feature where it would be significantly detrimental to the prevailing characteristics of the street.
9. I conclude that in respect of Appeal A the proposal would harm the character and appearance of the area. It would conflict with Policies EN1/2, EN1/4, HT5/1, HT6/1, EN1/9 and EN1/10 of the Bury Unitary Development Plan 1997 (UDP) which together amongst other matters seek to ensure that development enhances the character and appearance of the street scene.

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

10. In respect of Appeal B, I conclude that the proposal would have an unacceptable effect on the amenity of the area. It would be contrary to guidance on advertisements within the Framework and the aims of Policy EN1/9 of the UDP which, although not decisive, seeks to ensure proposals do not harm the character of the area.

Highway and public safety

11. The communications hub would be close to the pedestrian access to Tithebarn Street, used to access car parks and other parts of the town centre. The pedestrianised street is approximately 14 metres wide in this location. Whilst the hub and the potential for people congregating around it would cause a narrowing of the pedestrianised area, it would only be to one part of it. The space that would remain would not adversely affect pedestrian permeability or the safe and efficient operation of the highway, including for emergency access.
12. I conclude that in respect of Appeal A the proposal would not harm highway safety with particular regard to pedestrian safety. It would comply with Policies EN1/2, EN1/4, HT5/1, HT6/1, EN1/9 and EN1/10 of the UDP which together amongst other matters seek to ensure that pedestrians are able to move conveniently and safely.
13. In respect of Appeal B I conclude that the proposal would not have an unacceptable effect on public safety. It would comply with the guidance on advertisements within the Framework and the aims of Policy EN1/9 of the UDP which, although not decisive, seeks to ensure proposals protect the safety of pedestrians.

Strategy for defibrillators

14. The proposal includes for a defibrillator to be provided, in partnership with Community Heartbeat Trust, a registered charity that promotes greater access to defibrillators in public spaces. The Council state that there is insufficient information to properly assess the proposal in relation to a wider strategy for the need and provision of defibrillators throughout the Borough. However, I have not been provided with any information in respect of the Council's wider strategy, or how the proposal could undermine any such approach.
15. On this basis, I conclude that there is no evidence before me to demonstrate that the proposal would harm the wider strategy for the need for and provision of defibrillators throughout the Borough. Hence it would comply with Policy CF1/1 of the UDP which supports the provision of new and improved community facilities in appropriate locations. The decision notice also refers to Policies EN1/2, EN1/4, HT5/1, HT6/1, EN1/9 and EN1/10 of the UDP with regard the provision of defibrillators. I do not consider that their provisions are relevant to the consideration of this main issue.

Other Matters

16. I note the appellant's concerns regarding the Council's handling of the case. However, this is a matter that would need to be taken up with the Council in

the first instance. In determining this appeal, I am only able to have regard to the planning merits of the case.

17. I note the Council's concerns that the appellants did not have the agreement for the placement of the proposal on the adopted highway. The appellant's evidence is that they are statutory undertakers on the unregistered adopted highway and as such are not required to obtain a formal agreement with the Highway Authority for the placement of such equipment. I have no evidence to the contrary.

Planning Balance

18. In the context of Appeal A, I have had regard to the public benefits of the proposed communication hub, which in addition to a defibrillator, include free phone calls to landlines and charities, free Wi-fi, local wayfinding and charging facilities. The hub would also be powered by Green energy and lit using high-capacity batteries, powered by solar energy. The proposal would therefore not conflict with Policy JP-C2 of the Places for Everyone Joint Development Plan Document (adopted 21 March 2024), which supports the provision of high quality digital infrastructure. Nevertheless, there is no substantive evidence before me that the benefits could not be achieved through a scheme that would not be harmful for the identified reasons. Consequently, the public benefits identified only weigh moderately in favour of the proposals and do not outweigh the significant harm that I have identified to the amenity, including character and appearance of the area.
19. Notwithstanding the above, in relation to Appeal B, there is no indication in the Regulations, Framework or PPG that any other factors can be taken into account either for, or against, a proposal. The aforementioned benefits have therefore had no bearing on my decision in Appeal B.

Conclusion

Appeal A

20. Whilst I have found no harm to the strategy for defibrillators and highway safety, this does not outweigh the harm I have found to the character and appearance of the area. 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. For the reasons given above the appeal is dismissed.

Appeal B

21. Whilst I have found no harm to public safety this does not outweigh the harm I have found to amenity. The appeal is dismissed.

H Senior

INSPECTOR

Appeal Decision

Site visit made on 6 August 2024

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Appeal Ref: APP/T4210/W/24/3341777

313 Holcombe Road, Tottington, Bury BL8 4BB

- 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 Chloe West against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70446.
 - The development is a single storey side extension with change of use to residential garden and means of enclosure to the land to the north of No. 313 Holcombe Road.
-

Decision

1. The appeal is allowed and planning permission is granted for a single storey side extension with change of use to residential garden and means of enclosure to the land to the north at 313 Holcombe Road, Tottington, Bury BL8 4BB in accordance with the terms of the application Ref 70446 and subject to the following conditions.
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with Drawing Nos ZT23-196-03 and ZT23-196-04. For the avoidance of doubt the material change of use to garden area hereby approved relates to the area hatched red on drawing number ZT23-196-03 only.
 - 3) The external finishing materials for the proposal hereby approved shall match those used in the existing building/dwelling.
 - 4) Within 3 months of the date of this decision, full details of the reinstatement of the footpath to its former condition prior to it being crossed by vehicles which used the parking area shall be submitted to and agreed in writing with the local planning authority. The approved details shall be implemented within 3 months of the local planning authority's approval.

Preliminary Matters

2. The appeal before me is for the refusal of planning permission for a single-storey side extension and 1.8-metre (m) high boundary fence and wall as shown on the proposed plans. While reference is made to 'residential

curtilage' in the development description on the application form, the term 'curtilage' is not a 'use' of land, nor does it describe an act of development. Whilst the verge to the side of the house may be in the ownership of the appellant its original function appears to have been as a highway verge as opposed to domestic garden area, noting feature such as the utility cabinets within the space. For correctness, I have accordingly changed the development description on the application to refer to residential garden.

3. During the course of the appeal the Council adopted the 'Places for Everyone Joint Development Plan Document 2022 to 2039' on 21 March 2024 (PfE). The PfE replaces certain policies of the Bury Unitary Development Plan 1997 (UDP), and the Council has indicated that this includes UDP Policies HT6/2, OL3 and OL3/1 which are cited in the Council's reasons for refusal. The appellant has provided comments regarding this matter within the appeal timetable, and I have taken these into account.
4. On my visit, I observed the sections of side and rear fencing and wall that exists and note the appellant's comments regarding retention of these in the proposal. However, for clarity I have based my decision on the proposed drawings.
5. The Council refer to enforcement action being taken against an air conditioning unit located on the side elevation of the host property. As this unit does not form part of the proposal, I have not considered it in the appeal.

Main Issues

6. The main issues in the determination of the appeal are the proposed development's effect on:
 - the character and appearance of the area; and
 - highway safety with particular regard to junction visibility at the access lane, vehicle parking and footpath condition.

Reasons

Character and appearance

7. The appeal site consists of an end terrace two-storey property which sits in a corner plot at the junction of Holcombe Road and Hunt Fold Drive. A lane runs to the back of the appeal property and terrace which allows access to the terraces' rear areas which include gardens and garages. To the side of the appeal property there is a grass verge which separates it from Hunt Fold Drive. A parking area and a rear fence and wall have been built over this verge and the Council considers these works to be unauthorised and the appellant provides no information to dispute this.
8. The proposal would consist of a single storey side extension with sections of rear and side boundary fencing and walling, much of which already exist. The proposal would remove the existing vehicle parking area and would reinstate it as grass verge.
9. The proposal including the fencing and walling are shown on Drawing Nos ZT23-196-03 and ZT23-196-04. While full elevations of the proposed wall and

fencing in relation to the proposed extension are not presented, the extent, dimensions and typical appearance of the fencing and wall are shown. I therefore consider the information to be sufficient to allow the visual effect of the proposal to be assessed.

10. The appeal site and host property are in a prominent location with an existing large side elevation and traditional design. With its small single storey size, set back from the roads and use of similar materials to the host property, even with its mono-pitched roof, the proposed extension would not be an overly intrusive or incongruous feature in this context and in the surrounding area. It would also not interrupt or harm the views from the surrounding roads. Its small size and set back from the front of the host property would also prevent the proposal's window from appearing out of place or out of proportion with the proposed stone header and roof eave details and the existing property's front fenestration.
11. The proposal's fencing and brick wall would not be uncommon boundary treatments in the area and would be modest in extent compared to similar boundary features that exist. The proposed fencing would not have any tree canopy cover as is evident to some of the existing fencing. However, with its front and side road set backs, backdrop of existing fencing and the separation created by the access lane and the grass verge, it would not appear as an intrusive or out of place feature in the street views.
12. Further to the above, other than reference that the Supplementary Planning Document 6 titled 'Alterations and Extensions to Residential Properties' 2010 (SPD) states that side extensions should respect the character of the street scene, little evidence has been provided that the proposal would not meet the highway separation guidance outlined in it.
13. The proposed fencing would reduce some views along the rear access lane but these would typically be passing glimpsed views of the lane's lower existing fencing, vehicle parking and garages. The proposed fencing would have a negligible effect on the sky and more distant vistas. Consequently, the proposed fencing and walling would not have an unacceptable effect on views.
14. Concern has been raised that the proposal would introduce domestic paraphernalia which would adversely affect the character and appearance of the area. However, no evidence has been presented to show the retained grass verge has been or would be used for such purposes. Indeed it is more likely, from a privacy and security perspective, that such domestic items would be located within the rear enclosed area of the host property, behind the proposed fence and wall. As such, domestic paraphernalia would not be highly visible in the street views.
15. Reference is made to Appeal APP/T4210/D/17/3188255 which related to a prominent corner plot at 71 Milbourne Road. However, this appeal related to a much larger two storey side extension which significantly encroached into the side landscape and affected the traditional design of the host dwelling. As such it is not directly comparable to the proposal before me and does not change my view on the effect it would have. In any event, I have considered the proposal on its own planning merits.

16. While the verge is an important and attractive visual aspect of the street scene, the proposal would be a modest reduction in its openness and the greenspace would be largely retained. It would not unacceptably affect the character and appearance of the area. It would not conflict with Policies EN1/2 and H2/3 of the UDP, Policy JP-G6 of the PfE and the SPD. These policies and guidance seek, amongst other matters, for proposals not to have an unacceptable adverse effect on the character of the area and ensure there is an appropriate scale, type, quality and distribution of accessible urban green space.

Highway Safety

17. The appellant has confirmed that the proposal would remove the vehicle parking area, and this would remove the concerns raised regarding vehicles crossing the footpath and not parking clear of the adopted highway. Drawing No ZT23-196-03 shows the rear access lane's visibility splay the proposal would retain to the Holcombe Road junction. This shows that, with a 2.4m set-back from the edge of Hunt Fold Road, the visibility distance would be typically as existing with 25m to the junction radii noted and visibility of the junction area beyond evident. Even though the Council indicate that a 2.4m x 33m visibility splay (measured to the correct point around the radius) is required, it provides little evidence disputing that the visibility distance shown to the junction would not be adequate. Consequently, I see little justification that the proposal would unacceptably affect the existing rear access lane's visibility splay.

18. The inclusion of the vehicle parking area has resulted in vehicles driving across the footpath. However, while it is contended that this has damaged the footpath, little evidence to show this to be the case has been provided. Indeed, during my visit I saw little difference between the surface condition of the footpath crossed by vehicles, including its kerbing, and those areas without a vehicle crossing. Notwithstanding this, the footpath has been modified to tie-in with the parking area and there is a need to ensure that the proposed removal of the vehicle parking area would satisfactorily reinstate the footpath. The Council has provided wording for a planning condition to secure this aspect and the appellant has, while noting there appears to be no damage to the footpath from vehicle parking, accepted this. I therefore see little reason why this matter could not be controlled by a condition were the appeal to be allowed.

19. In conclusion of this matter, with a suitably worded condition imposed for the reinstatement of the footpath, highway safety would not be harmed by the proposed development. It would not conflict with Policies EN1/2 and H2/3 of the UDP, Policies JP-C5 and JP-C6 of the PfE and the SPD which seek new development, amongst other matters, minimises negative effects on vehicle traffic and ensures pedestrian routes can be navigated easily and safely.

Other Matters

20. A representation was made that green space on housing estates has a positive effect on mental and physical health. However, while this may be the case, the proposal would only modestly reduce the existing grass verge and it would not unacceptably reduce the positive effect it would still provide to the

estate. As such, this does not change my view that the proposal would not harm the character and appearance of the area.

Conditions

21. The Council has suggested several conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of these for consistency and clarity.
22. For the avoidance of doubt and in the interests of certainty, I have included the standard time limit condition. For the same purpose, a condition is imposed requiring the development to be carried out in accordance with the approved plans. For certainty, I have noted that the material change of use to residential garden only relates to the area hatched red on drawing number ZT23-196-03.
23. To ensure the development maintains the character of the existing building and the surrounding area I have imposed a condition for the external materials to be used to match the host property. For certainty, I have also included a condition for the details to be approved with the Council for the reinstatement of the footpath following the removal of the existing vehicle parking area. As the reinstatement is related to highway safety, I have included timescales for this to be completed. The timescales are similar to the Council's suggestion but are split to allow time for the approval of the details to be completed.

Conclusion

24. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

J Symmons

INSPECTOR



Appeal Decision

Site visit made on 21 October 2024

by SRG Baird BA (Hons) MRTPI

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

Decision date: 30th October 2024

Appeal Ref: APP/T4210/W/24/3346847

Performance House, Heywood Street, Bury BL9 7DZ

- 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 H Khan against the decision of Bury Metropolitan Borough Council.
 - The application Ref 70710, dated 28 April 2024, was refused by notice dated 19 June 2024.
 - The development proposed is the change of use of part of car showrooms to general retailing plus an independent office including an extension to the existing building.
-

Preliminary Matter

1. In September 2024 planning permission was granted, on appeal¹ for the change of use of part of a car showroom to general retailing, an independent office and an extension to the existing building. Where material, I have had regard to this decision.

Decision

2. The appeal is dismissed.

Main Issues

3. The implications of the proposed parking and servicing arrangements for pedestrian safety and the safety and free flow of traffic on Heywood Street.

Reasons

4. In the previous appeal decision, the Inspector accepted that 12 off-street car parking spaces would be acceptable. The material difference between the approved scheme and the current scheme is the location of off-street car parking. In the approved scheme the off-street car parking would be provided immediately to the south-west using most of the open car sales area. This area does not form part of the current appeal site and is used for car/van sales. In the approved scheme access for customers and servicing would be convenient and legible, with no need to park on Heywood Street.
5. Whilst I consider the scale of off-street car parking to be acceptable, for the appeal scheme, the proposed parking arrangements are materially different. To the rear and fenced off from the former car showroom is an area of land that also provides access to and servicing for an existing commercial unit. Within this area it is proposed to provide one car parking space with the remainder provided to the west of the service yard. Regarding the proposed

¹ APP/T4210/W/24/3341939

space immediately to the rear of the units, I am not convinced that its can be provided in the form shown. Drawing No. CO1 Rev 1 does not show an enclosed external staircase, which appears to give access to the first-floor office permitted with the café scheme. This appears to occupy the area of the proposed car parking space.

6. The bulk of the proposed parking would be within an area to the west, which is fenced/gated off from the service yard. There are 2 vehicular accesses from Mason Street, one to the service yard and one into the parking area. It is not clear which access patrons of the retail units/office would use. That said there is a reference in appellant's statement that there could be direct access from the parking area to the back and side of the buildings for loading and unloading and provide a shorter pedestrian route for customers, particularly those who are less mobile. However, there is no indication how this can be achieved. The units are fenced off from this service area and the land to the south-west appears to be wholly used for car sales. Even if direct access could be provided it would mean customers negotiating the service yard where there is significant potential for conflict with customer and service vehicles entering and leaving the yard. Drawing this together, unlike the approved scheme it has not been shown that the proposed off-street parking arrangements would be safe, legible and usable.
7. The appellant suggests that patrons could use 2 publicly available car parks nearby. The first is immediately north of Mason Street at the junction of Heywood Street. The second is at the junction of Heywood Street and Kershaw Street. The Mason Street car park does not appear to be available to the general public. Signage at the access clearly indicates that it is Private Land and that the occupiers of the units, Iceland and a cycle shop, appear to tightly control its use. The car park on Kershaw Street is a well-used public car park but is some distance away. Whilst there is vehicular access from Heywood Street, vehicles have to exit via Kershaw, Tinline and Ormrod Streets. These areas are not usable or convenient alternatives.
8. Given the issues with the proposed off-street parking arrangements, there is the high probability that parking and servicing for the units would use Heywood Street or the footpath outside the units. I acknowledge that there are no parking restrictions on Heywood Street outside the units and the lpa has adopted a flexible attitude to the use of town centre properties that lack car parking. However, that flexibility has to be tempered by an assessment of the nature of the surrounding roads.
9. Heywood Street is a bus route and a main route into the town centre. This route is heavily trafficked, and on several occasions, traffic queued back from the traffic light-controlled junction with Rochdale Road to beyond the appeal site. Given its nature, there is no reason to believe that these were unique observations. Compared to other main routes in the town centre, Heywood Street is relatively narrow and on-street parking is constrained by a pedestrian island outside 128/130 Heywood Street and right turn boxes into Ormrod, Mason and Kershaw Streets. In these circumstances, parking on Heywood Street, even for a short time, or parking on the pavement would result in an unacceptable interference with the free flow of traffic and constitute a highway and pedestrian hazard. As such, the proposal would conflict with the objectives of Bury Unitary Development Plan 1997 (UDP) Policies EN1/2, HT2/4, HT6/1,

HT6/2 and Policies JP-C6 and JP-P1 of Places for Everyone Joint Development Plan 2024.

Other Matters

10. The proposed bin store is shown located immediately to the west of the vacant hot-food takeaway unit and beyond the rear fence line. However, the site layout plan fails to show the enclosed stairway to the first-floor unit. In these circumstances it is unclear whether suitable provision can be made in this area. Whilst this is a matter that might normally be dealt with by condition, given my conclusions above, it adds to my concerns regarding this proposal.

Overall Conclusion

11. For the above reasons and taking all other matters into consideration, the proposal would have an unacceptable effect on pedestrian safety and the safety and free flow of traffic on Heywood Street contrary to the objectives of the development plan when read as a whole. The appeal is dismissed.

George Baird

Inspector