

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	22 April 2025
SUBJECT:	PLANNING APPEALS
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - Lodged - Determined
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

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

1.0 BACKGROUND

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

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

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

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**Planning Appeals Lodged
between 10/03/2025 and 10/04/2025**



Application No.: 71400/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Sharif

Location 99 Radcliffe Road, Bury, BL9 9LD

Appeal lodged: 17/03/2025

Appeal Type:

Proposal Single storey side & rear extension; Rear dormer

Total Number of Appeals Lodged: 1

**Planning Appeals Decided
between 10/03/2025 and 10/04/2025**



Application No.: 71209/ADV

Decision level: DEL

Recommended Decision: Refuse

Applicant: Elite Billboards

Location: 115 Bolton Road, Bury, BL8 2NW

Proposal: Installation of 1no. internally illuminated digital LED advertisement

Appeal Decision: Dismissed

Date: 10/03/2025

Appeal type: Written Representations



Appeal Decision

Site visit made on 21 February, 2025

by A.Graham BA(hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 10th March 2025

Appeal Ref: APP/P4225/Z/25/3358659

Manchester Motor Mart, 109-119 Bolton Road, Bury BL8 2NW

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Elite Billboard against the decision of Bury Metropolitan Borough Council.
 - The application Ref is: 71209/ADV.
 - The application is for erection of 1 no. digital LED advertisement display.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposal upon the visual amenity of the area.

Procedural Matter

3. Since the determination of this application a revised National Planning Policy Framework (The Framework) was published on 12 December 2024 (updated 7 February 2025) whose main focus was not directly relevant to this appeal. Nevertheless, I have determined this appeal in accordance with the revised provisions within the Framework.

Reasons

4. The proposal before me seeks permission for an internally illuminated LED digital advertisement screen to be fixed to the first floor of an existing building that is located along a busy road that is Bolton Road. The screen would measure around 3m high by 6m in length and would be located around 2.5m above ground floor level.
5. The building upon which the advertisement would be fixed appears to be a nineteenth century structure of red brick. It relates to other buildings further along Bolton Road through an existing shopfront that largely maintains the proportions and simple design of a traditional commercial premises. To the end elevation the side gable appears to have been the subject of historic demolition and, as a result, this end elevation is white rendered and fronts onto an existing parking area associated with the operator and a car wash that sits adjacent.

6. This end elevation has an external stair, doorway and two windows to the first floor level as well as a doorway and windows into the ground floor unit. I saw on my site visit that the adjoining building contained a large paper advertisement panel but was absent of any advertisements at the time. Although in isolation, this site appears to be of a different and lower quality than much of the rest of the town, the building can nevertheless clearly be seen further along Bolton Road around the area of St Stephen Street and as such is visible from long distance views where this site is seen in the context of more historic areas and the hills beyond.
7. The proposed sign would be affixed to the first floor side elevation of this building and would entirely cover the two windows at the upper level. The sign would be particularly prominent on approach to the traffic lights just past the building. Although the end elevation is not of high architectural merit, and although this particular area of the town is of a more commercial nature, the site is still within the context of intact and higher quality areas of townscape, including long distance views beyond the town.
8. In assessing this appeal I consider firstly that the loss of fenestration to this elevation would represent an erosion of townscape quality in this location as well as harm the provision of natural surveillance that the building is capable of promoting. The obstruction of these two first floor windows would therefore not only erode the visual integrity of the building but it would also eliminate the opportunities for natural surveillance, which, in turn, contributes to public safety and active frontage along this part of Bolton Road.
9. To add a large digital display over the windows would compound this harm and would also have a far reaching impact further up Bolton Road where the building would still be visible from. As a result, there would be harm sustained along this principal approach into Bury town centre through the erosion of quality caused by added signage and the effect it would have upon the townscape quality and safety of the area.
10. Ultimately the erection of such a large scale advertisement here represents a poor design solution for this site and would cause harm to the visual amenities of the area. Accordingly, I find that the proposal would be in conflict with Policies EN1/7 and EN1/9 of the Bury Unitary Development Plan as well as the aspirations for good design and placemaking as contained within the Framework itself.

Conclusion

11. For the reasons above, taking into account the particular criteria of this proposal, I dismiss the appeal.

A Graham

INSPECTOR

**Details of New Enforcement Appeals Lodged
between 10/03/2025 and 10/04/2025**



Case Ref: 24/0443

Date of Appeal: 03/04/2025
Appeal Type: REP

Location: Eagle and Child, 3 Whalley Road, Shuttleworth, Bury, BL0 oDL

Issue: Unauthorised building works.

Total Number of Appeal Cases: 01

The Ombudsman's final decision

Summary: There is no evidence of fault by the Council. It has investigated Miss X's complaints about the placement of a commercial refuse bin but has reached a decision not to take action after considering all the facts.

The complaint

1. The complainant, who I shall refer to as Miss X, complains the Council has not taken action to prevent a commercial waste bin being placed on the footpath next to her property. Miss X says that the bin attracts vermin, that people use it to climb on her roof and it can block her access.

The Ombudsman's role and powers

2. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word fault to refer to these. We consider whether there was fault in the way an organisation made its decision. If there was no fault in how the organisation made its decision, we cannot question the outcome. (Local Government Act 1974, section 34(3), as amended)
3. If we are satisfied with an organisation's actions or proposed actions, we can complete our investigation and issue a decision statement. (Local Government Act 1974, section 30(1B) and 34H(i), as amended)

What I have and have not investigated

4. I have not investigated matters that were considered in Miss X's previous complaint to the Ombudsman (19 011 331). This includes the Council's decision that there was no breach of planning permission over the storage of the bins.
5. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a Council has done. (Local Government Act 1974, sections 26B and 34D, as amended)
6. Miss X received a response to her official complaint from the Council in November 2023 and so has been aware of the matters she complains about for over 12 months. I have investigated her complaints from July 2023 onwards, which is 12 months before she submitted her complaint to the Ombudsman. I have not exercised discretion to investigate prior to that date as Miss X has made

previous complaints to the Ombudsman on the same issue, prior to this date and could have complained earlier.

How I considered this complaint

7. I read the papers put in by Miss X.
8. Miss X and the Council now have an opportunity to comment on my draft decision. I will consider their comments before making a final decision.

What I found

9. Miss X complains the Council has not ensured that owners of a business put their bin away from her property. Miss X says the bin can block her access, the refuse attracts vermin, that passers-by urinate behind the bin and that it is used to climb onto her roof.
10. The Council has said that previously it supplied the commercial bin to the business so it could ask its employees to replace the bin in a specific location. However, the bin is now collected by another company so it has no control over where the bin is replaced.
11. In response to Miss X's official complaint the Council has said that it has 'never established a statutory nuisance or any offence in relation to littering, food refuse smell or vermin and is therefore unable to take any statutory enforcement action on this matter'. And 'that she should report members of the public urinating in a public place to the police'. In the previous complaint to the Ombudsman, highway officers concluded that due to the width of the pavement, the bin was not causing an obstruction on the highway.
12. In response to my enquiries, the Council said:
 - The area that the commercial bin is stored on is highway.
 - The commercial bin is collected by a private commercial waste company not the Council, so it has no control over the placement of the bin by the contractor.
 - The planning department said 'all the relevant planning considerations have been complied with in that uses that needed planning permission are using bins within curtilage and the space is available for them to be stored, albeit domestic type bins.
 - The Environmental Health department has not identified a statutory nuisance with the placing of the waste receptacle on the highway. The placing of a waste receptacle can be enforced under the Environmental Protection Act 1990, s47 4(c) 'the placing of the receptacles for that purpose on highways'. However, there is no facility/area for the business to store the waste receptacle off the highway.
 - The Council said 'it did look into enforcement action. Due to the building configurations, the owners do not have access to a suitable space for off street storage. Following investigation, it was agreed that the bin could remain on the highway in a designated area, which is away from the complainant's property. The footway at this location is sufficiently wide that it does not cause an obstruction for highway users. This was agreed on the condition that the owners ensured that the bins were kept in the designated zone. Subsequent monitoring suggests that this is being complied with'.

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- The Council said 'it does not have any policies preventing commercial waste storage on the highway, but we do investigate all complaints and assess each on merit, much as we would consider applications for pavement licenses for commercial premises wishing to extend businesses onto the highway. The Highway Authority can use their powers to enforce where the bins represent an obstruction of the highway, but in this case the footway width is substantial and the bin storage is against a gable end where it does not represent an obstruction'.
13. Miss X has many photographs and videos of the problems she says are caused by the bin. I understand her concerns but our role is not to ask whether an organisation could have done things better, or whether we agree or disagree with what it did. Instead, we look at whether there was fault in how it made its decisions. If we decide there was no fault in how it did so, we cannot ask whether it should have made a particular decision or say it should have reached a different outcome.
 14. I have looked all the information and can find no evidence of fault by the Council. It has investigated and responded to Miss X's complaints, but has reached a decision that no action can be taken. I appreciate Miss X disagrees with this decision but I can find no evidence of fault by the Council when reaching the decision.

Final decision

15. I have completed my investigation of this complaint. This complaint is not upheld as there is no evidence of fault by the Council.

Investigator's decision on behalf of the Ombudsman

