

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	14 December 2021
SUBJECT:	PLANNING APPEALS
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - Lodged - Determined
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

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

1.0 BACKGROUND

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

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

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

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**Planning Appeals Lodged
between 01/11/2021 and 05/12/2021**



Application No.: 66444/FUL **Appeal lodged:** 25/11/2021
Decision level: COM **Appeal Type:**
Recommended Decision: Approve with Conditions

Applicant: Mr Nicholas Mordin
Location Brookhouse Farm, 218 Holcombe Road, Tottington, Bury, BL8 4BQ

Proposal Demolition of existing garages/stables and erection of 1 no. dwelling

Application No.: 66513/FUL **Appeal lodged:** 10/11/2021
Decision level: DEL **Appeal Type:**

Recommended Decision: Refuse

Applicant: Mr & Mrs Sanders
Location Davises Farm, Mather Road, Bury, BL9 6TJ

Proposal Refurbishment of existing timber storage building including replacing existing timber doors with new timber doors, alterations to fenestration to include 2 no. doors and 2 no. windows in relation to a cattery area and incorporating the existing open storage area within the footprint of the building by the provision of additional cladding to match existing

Application No.: 67263/FUL **Appeal lodged:** 09/11/2021
Decision level: DEL **Appeal Type:**

Recommended Decision: Refuse

Applicant: Mr & Mrs Rose
Location 5 Holmfield Avenue, Prestwich, Manchester, M25 0BH

Proposal Demolition of existing dwelling and erection of 1 no. dwelling

Total Number of Appeals Lodged: 3

10 November 2021

Complaint reference:
21 009 636

Complaint against:
Bury Metropolitan Borough Council

The Ombudsman's final decision

Summary: We will not investigate Miss X's complaint about the Council's decision to approve the installation of a new mobile phone mast on land near her home. This is because there is no evidence of fault by the Council affecting its decision and we cannot achieve the outcome Miss X wants, which is to move the mast.

The complaint

1. The complainant, Miss X, complains about the Council's decision to approve a new mobile phone mast in a location she considers is not suitable. She wants the Council to move the mast.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse effect on the person making the complaint, which we call 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start an investigation if the tests set out in our Assessment Code are not met. (*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

3. I considered information provided by Miss X and the Ombudsman's Assessment Code.

My assessment

4. We cannot question whether the Council's decision to approve the new mobile phone mast is right or wrong simply because Miss X disagrees with it. We must consider whether there was fault in the way the Council reached its decision.
5. Miss X is concerned the description of the site used in the application is inaccurate/misleading but I have seen nothing to suggest this was the case. The site description does not need to include details of everything around the site and is used simply as a way to identify the location of the proposed development. It is clear the Council and local residents were aware of the location and commented on the proposal accordingly. The planning officer's report shows comments from local residents questioning the suitability of the location but explains why, in their view, the proposal is acceptable.

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6. Miss X is also concerned about the safety of the equipment, given its proximity to areas lived in and used by local residents including children. But the Council has explained the mast is considered approved equipment and it cannot therefore use residents' concerns about its safety as reason to refuse the application. It also cannot take into account the possible impact on property prices or other issues which are not material planning considerations or matters which are subject to approval under the process.
 7. The planning officer's report shows the Council properly considered the relevant points in determining the application and I have seen no evidence of fault affecting its decision. While it is clear Miss X disagrees with the decision to approve the mobile phone mast we cannot question its judgement and we cannot now say it must withdraw its approval and require it to relocate the mast to another location.
 8. Miss X also complains about the Council's decision to sell or lease the land on which the mast is located. But the Council's response to Miss X's complaint suggests there has been no final decision on this issue. It has invited Miss X to make representations on the proposal before it reaches a final decision and if, once the Council has made its decision Miss X believes it has failed to properly consider her representations she may raise a new complaint.

Final decision

9. We will not investigate this complaint. This is because there is no evidence of fault by the Council affecting its decision and we cannot achieve the outcome Miss X wants.

Investigator's decision on behalf of the Ombudsman