

# REPORT FOR NOTING

<b>DECISION OF:</b>	<b>PLANNING CONTROL COMMITTEE</b>
<b>DATE:</b>	<b>11 October 2022</b>
<b>SUBJECT:</b>	<b>PLANNING APPEALS</b>
<b>REPORT FROM:</b>	<b>HEAD OF DEVELOPMENT MANAGEMENT</b>
<b>CONTACT OFFICER:</b>	<b>DAVID MARNO</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain
<b>SUMMARY:</b>	<p>Planning Appeals:</p> <ul style="list-style-type: none"> <li>- Lodged</li> <li>- Determined</li> </ul> <p>Enforcement Appeals</p> <ul style="list-style-type: none"> <li>- Lodged</li> <li>- Determined</li> </ul>
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	The Committee is recommended to the note the report and appendices
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework? Yes
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	Executive Director of Resources to advise regarding risk management
<b>Statement by Executive Director of Resources:</b>	N/A
<b>Equality/Diversity implications:</b>	No
<b>Considered by Monitoring Officer:</b>	N/A

<b>Wards Affected:</b>	All listed
<b>Scrutiny Interest:</b>	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 22/08/2022 and 02/10/2022**



**Application No.:** 67318/FUL

**Decision level:** DEL

**Recommended Decision:** Refuse

**Applicant:** Mrs Janice McNally

**Location** 273 Parr Lane, Bury, BL9 8PJ

**Appeal lodged:** 26/09/2022

**Appeal Type:** Written Representations

**Proposal** Retrospective planning permission for proposed change of use of land to the rear of property to be within the residential curtilage

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**Application No.:** 68103/FUL

**Decision level:** DEL

**Recommended Decision:** Refuse

**Applicant:** Mr Howarth

**Location** 29 Chestnut Avenue, Tottington, Bury, BL8 3EE

**Appeal lodged:** 14/09/2022

**Appeal Type:** Written Representations

**Proposal** Two storey extension at rear; First floor extension at side

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**Application No.:** 68263/FUL

**Decision level:** DEL

**Recommended Decision:** Refuse

**Applicant:** harryjacksonsurveyorsltd

**Location** 7 Burndale Drive, Bury, BL9 8EN

**Appeal lodged:** 06/09/2022

**Appeal Type:** Written Representations

**Proposal** Two storey side extension with gable roof plus new parking layout

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**Application No.:** 68439/FUL

**Decision level:** DEL

**Recommended Decision:** Refuse

**Applicant:** BT Telecommunications Plc

**Location** Pavement at Princess Parade, near Bury Interchange Stand E, Bury, BL9 0QL

**Appeal lodged:** 19/09/2022

**Appeal Type:** Written Representations

**Proposal** Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks.

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**Application No.:** 68440/ADV  
**Decision level:** DEL  
**Recommended Decision:** Refuse

**Appeal lodged:** 19/09/2022  
**Appeal Type:** Written Representations

**Applicant:** BT Telecommunications Plc  
**Location** Pavement at Princess Parade, near Bury Interchange Stand E, Bury, BL9 0QL

**Proposal** Advertisement consent for installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks.

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**Application No.:** 68443/FUL  
**Decision level:** DEL  
**Recommended Decision:** Refuse

**Appeal lodged:** 19/09/2022  
**Appeal Type:** Written Representations

**Applicant:** BT Telecommunications Plc  
**Location** Pavement outside 25 The Rock, Bury, BL9 0JP

**Proposal** Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks.

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**Application No.:** 68444/ADV  
**Decision level:** DEL  
**Recommended Decision:** Refuse

**Appeal lodged:** 19/09/2022  
**Appeal Type:** Written Representations

**Applicant:** BT Telecommunications Plc  
**Location** Pavement outside 25 The Rock, Bury, BL9 0JP

**Proposal** Advertisement consent for installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks.

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**Application No.:** 68445/FUL  
**Decision level:** DEL  
**Recommended Decision:** Refuse

**Appeal lodged:** 19/09/2022  
**Appeal Type:** Written Representations

**Applicant:** BT Telecommunications Plc  
**Location** Pavement between Racconto Lounge and Fone Tech, The Rock, Bury, BL9 0PJ

**Proposal** Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks.

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**Application No.:** 68446/ADV  
**Decision level:** DEL  
**Recommended Decision:** Refuse

**Appeal lodged:** 19/09/2022  
**Appeal Type:** Written Representations

**Applicant:** BT Telecommunications Plc  
**Location** Pavement between Racconto Lounge and Fone Tech, The Rock, Bury, BL9 0PJ

**Proposal** Advertisement consent for installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks

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**Application No.:** 68449/FUL  
**Decision level:** DEL  
**Recommended Decision:** Refuse

**Appeal lodged:** 19/09/2022  
**Appeal Type:** Written Representations

**Applicant:** BT Telecommunications Plc  
**Location** Pavement opposite Frankie & Benny's, 15-17 The Rock, Bury, BL9 0JY

**Proposal** Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks.

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**Application No.:** 68450/ADV  
**Decision level:** DEL  
**Recommended Decision:** Refuse

**Appeal lodged:** 19/09/2022  
**Appeal Type:** Written Representations

**Applicant:** BT Telecommunications Plc  
**Location** Pavement opposite Frankie & Benny's, 15-17 The Rock, Bury, BL9 0JY

**Proposal** Advertisement consent for installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks

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**Application No.:** 68456/FUL  
**Decision level:** DEL  
**Recommended Decision:** Refuse

**Appeal lodged:** 26/09/2022  
**Appeal Type:** Written Representations

**Applicant:** Mr Hoy  
**Location** 3 Dumers Lane, Bury, BL9 9PE

**Proposal** Proposed dropped kerb with associated landscaping for driveway.

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**Total Number of Appeals Lodged: 12**

**Planning Appeals Decided  
between 22/08/2022 and 02/10/2022**



**Application No.:** 67399/TEL

**Decision level:** DEL

**Recommended Decision:** Prior Approval Required

**Applicant:** CK Hutchison Networks (UK) Ltd

**Location:** Grass verge, opposite 401-403 Middleton Road, Prestwich, Manchester, M24 4QZ

**Proposal:** Prior approval for proposed telecommunications installation comprising 18.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works

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**Appeal Decision:** Dismissed

**Date:** 23/09/2022

**Appeal type:** Written Representations



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## Appeal Decision

Site visit made on 23 August 2022

**by L Wilson BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 September 2022**

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### **Appeal Ref: APP/T4210/W/22/3294918**

### **Middleton Road, Manchester Old Road, Bury, Rochdale M24 4QZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Bury Metropolitan Borough.
  - The application Ref 67399, received 25 April 2021, was refused by notice dated 24 September 2021.
  - The development was originally described as a proposed 18m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. 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 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan<sup>1</sup> and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

### **Main Issues**

4. The main issues are the effect of the siting and appearance of the proposed installation on:
  - the character and appearance of the area;
  - the living conditions of nearby residents, having regard to outlook; and

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<sup>1</sup> Including Policies EN1/2, EN1/4 and EN1/10 of the Bury Unitary Development Plan (1997)

- if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

## **Reasons**

### *Character and appearance*

5. The appeal site comprises a grassed verge adjacent to Middleton Road, which is a dual carriageway, and a row of semi-detached dwellings. In making my decision I am mindful of technical constraints and that the installation must be high enough to ensure suitable coverage within the cell and provide connection between these cells. The appellant asserts that the associated ancillary cabinets are within the size limits to be classified as permitted development and should not be considered as a reason for refusal. Nonetheless, the proposal before me relates to the whole installation.
6. The monopole would be significantly taller and noticeable than nearby street furniture, including streetlights, traffic lights, signage and trees. There are also electricity pylons within the wider area which are visible from the appeal site, and surrounding area. Nevertheless, the pylons have little visual relationship with the appeal site due to the distance to them and they are seen as lightweight structures. The existing street furniture and trees would provide limited screening of the installation, when viewed from the surrounding area.
7. The scheme would be highly visible and appear as a discordant and incongruous feature when viewed from the surrounding area. This is due to the installations height, siting and appearance which would be seen in the context of two-storey semi-detached dwellings and the relatively open character of the grass verge. For these reasons, due to its siting and appearance, the proposed installation would harm the character and appearance of the area.

### *Living conditions*

8. The scheme would be in close proximity to the front windows of 399-405 Middleton Road which serve principal habitable rooms. When viewed from the ground and first floor front elevation windows of these properties, the monopole would be significantly taller and noticeable than the nearby street furniture, mentioned above, and trees. Furthermore, the associated cabinets would also have a poor relationship, and would be in direct view, with the ground floor windows of 401 and 403 Middleton Road due to their height and massing. The existing street furniture and trees would provide extremely limited screening of the installation, when viewed from nearby residential properties.
9. By virtue of the scheme's height, siting and appearance, the proposed installation would be visually intrusive and imposing when viewed from nearby properties, particularly 401 and 403 Middleton Road. The scheme would therefore significantly compromise the outlook from nearby properties. For these reasons, due to its siting and appearance, the proposal would have a harmful effect on the living conditions of the occupiers of 399-405 Middleton Road.



### *Suitable alternatives*

10. Paragraph 117 of the Framework sets out that applications, such as that proposed, should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
11. The appellant states that the cell search area is extremely constrained, and due to technological constraints, this is the only viable option. The submission sets out the discounted options. They state that option 1 was discounted due to the presence of underground services. However, as highlighted by the Council, Middleton Road is a long road, and it does not appear that other alternative sites along Middleton Road, which would have a greater distance to dwellings, have been satisfactorily considered. Option 2 was discounted as the telecoms site would not achieve its operational requirements in this location. Nevertheless, no clear detailed explanation has been submitted to explain the operational requirements.
12. Consequently, based on the evidence presented, I am not satisfied that the appellant has conducted a thorough review of possible options within the search area or adequately explored whether there may be less harmful alternative sites. As such, the harm I have identified above is not outweighed by the need for the installation to be sited as proposed.

### **Other matters**

13. I recognise the other matters raised by the appellant. These include the Future Telecoms Infrastructure Review, public benefits, a condition relating to the colour of the monopole, pre-application consultation, health risks, not infringe on the free-flow of pedestrians and Letter to Chief Planning Officers: Planning for Growth. However, these matters do not justify the harm identified above.
14. The appellant offers to reduce the height of the monopole to 15m. This is somewhat contradictory to the appellant's case in that they state the proposed development seeks to minimise the mass and scale of the installation as much as possible. The reduced height monopole scheme was submitted to the Council, but they did not accept the revised drawings.
15. In any event, generally, proposals cannot be amended through the appeal process. Where an appeal is made it is made against the decision of the Council and based on the plans submitted at the application stage. The proposed amendments have not been subject to any public consultation and the application attracted a large number of objections from local residents.
16. To consider an appeal on the basis of the amended proposals without the ability to undertake a revised consultation exercise would be unfair and could prejudice the position of those who may wish to comment on the proposals. Any amended proposal would be a matter for the Council to consider.

### **Conclusion**

17. I have found that, due to its siting and appearance, the proposed installation would have a harmful effect upon the character and appearance of the area and would have a harmful effect on the living conditions of the occupiers of

399-405 Middleton Road. The harm I have identified is not outweighed by the benefits of the scheme or the need for the installation to be sited as proposed.

18. For the reasons given above, I conclude that the appeal does not succeed.

*L M Wilson*

INSPECTOR