

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	21 November 2023
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 16/10/2023 and 12/11/2023**



Application No.: 69616/FUL

Appeal lodged: 30/10/2023

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Refuse

Applicant: Mr K & Mrs V Stopforth

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

Proposal Demolition of existing building to be replaced with 2 no. dwellings

Total Number of Appeals Lodged: 1

**Planning Appeals Decided
between 16/10/2023 and 12/11/2023**



Application No.: 68817/TEL
Decision level: DEL
Recommended Decision: Prior Approval Required
Applicant: Ck Hutchison Networks (UK) Limited
Appeal Decision: Allowed
Date: 18/10/2023
Appeal type: Written Representations
Location: Land near junction of Sycamore Road & Bury Road, Tottington, Bury, BL8 3EG
Proposal: Prior approval for proposed 5G 16m telecoms installation: H3G street pole and additional equipment cabinets.

Application No.: 68818/TEL
Decision level: DEL
Recommended Decision: Prior Approval Required
Applicant: Ck Hutchison Networks (UK) Limited
Appeal Decision: Dismissed
Date: 19/10/2023
Appeal type: Written Representations
Location: Land opposite Brookshaw Centre, Brook Street, Bury, BL9 6EB
Proposal: Prior approval for proposed 5G 15m telecoms installation: H3G street pole and additional equipment cabinets.

Application No.: 68819/TEL
Decision level: DEL
Recommended Decision: Prior Approval Required
Applicant: Ck Hutchison Networks (UK) Limited
Appeal Decision: Dismissed
Date: 19/10/2023
Appeal type: Written Representations
Location: Corner of Jubilee Way & Tenters Street, Bury, BL9 0AL
Proposal: Prior approval for proposed 5G 20m telecoms installation: H3G street pole and additional equipment cabinets.

Application No.: 69670/FUL
Decision level: DEL
Recommended Decision: Refuse
Applicant: Mr Daniel Cainer
Appeal Decision: Dismissed
Date: 01/11/2023
Appeal type: Written Representations
Location: Lady Margaret House, 51 Prestwich Park Road South, Prestwich, Manchester,
Proposal: Erection of detached double garage.



Appeal Decision

Site visit made on 19 September 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2023

Appeal Ref: APP/T4210/W/22/3309740

Land near junction of Sycamore Road & Bury Road, Tottington, Bury BL8 3EG

- 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) Limited against the decision of Bury Metropolitan Borough Council.
 - The application Ref 68817, dated 23 August 2022, was refused by notice dated 6 October 2022.
 - The development proposed is described as 'proposed 5G 16m telecoms installation: H3G street pole and additional equipment cabinets.'
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 5G 16m telecoms installation: H3G street pole and additional equipment cabinets at land near junction of Sycamore Road & Bury Road, Tottington, Bury BL8 3EG, in accordance with the application ref: 68817, dated 23 August 2022, and the plans submitted with it including BRY21769_MAN638_88062_BL0390_GA_REV_A Issue A (002 Site Location Plan), BRY21769_MAN638_88062_BL0390_GA_REV_A Issue A (215 Proposed Site Plan), BRY21769_MAN638_88062_BL0390_GA_REV_A Issue A (265 Proposed Site Elevation).

Preliminary Matters

2. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions.
3. The provisions of the GPDO require the local authority to assess proposed development solely based on its siting and appearance, taking account of any representations received. My determination of this appeal has been made on the same basis.
4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. Therefore, I have had regard to the policies of the development plan only in so far as they are factors relevant to matters of siting and appearance.

5. I have taken the address of the appeal site from the Council's decision notice rather than the application form as it is a more accurate description of the location. In addition, I have amended the description of development used in my formal decision from that set out in the banner heading above, which has been taken from the planning application form. The amended description leaves out 'proposed' as this word does not refer to an act of development.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposal on:
- the character and appearance of the area; and
 - highway safety.

Reasons

Character and appearance

7. The appeal site is located on Sycamore Road within a well-maintained and wide grass verge adjoining the vehicular carriageway, and between two vehicular accesses. It is in a predominantly residential area and adjoins the playing field of Walshaw Sports Club. The proposed apparatus would be sited close to the footpath with a narrow strip of grass retained between. A wider area of verge would separate the proposal from the carriageway. There are lampposts, trees and telegraph poles within the grass verges on either side of Sycamore Road and cabinets are located broadly opposite the appeal site within the grass verge.
8. Standard machinery may not be suitable for use within the remaining narrow strip of verge, making maintenance more difficult. Nonetheless, there is nothing before me that demonstrates that the strip could not be maintained should the proposed apparatus be installed. Furthermore, even if it were not possible to maintain the entire grass verge, only a small area would become overgrown. This would not be to the extent that a material and harmful impact on the appearance of the site or the wider area would arise.
9. Interested parties have raised concerns that the proposal would adversely affect the character and appearance of the area. However, the rhythm created by the existing lampposts, telegraph poles and trees would not be unacceptably interrupted by the introduction of the proposed apparatus. Whilst the proposed street pole would be higher than the nearby trees, it would be seen against the backdrop of these trees which would soften its presence. Moreover, the proposed equipment cabinets would be of modest size and extent and would not appear as large and unsightly additions to the verge.
10. Notwithstanding the existing cabinets close to the site and the possible erection of a 15m mast nearby, the siting of the proposed apparatus would not result in an undue proliferation of street furniture that would create a visually cluttered street scene. Additionally, given the degree of separation and the intervening green space, the proposal would not appear as conspicuous and discordant features when viewed from the houses on Sycamore Road and Bury Road.
11. For the above reasons, I conclude that the siting and appearance of the proposal would not harm the character and appearance of the area. Insofar as they are relevant to siting and appearance, the proposal would accord with

Policies EN1/2, EN1/3 and EN1/10 of the Bury Unitary Development Plan (UDP) which, amongst other things, seek to ensure proposals do not have an unacceptable adverse effect on character and townscape and encourage the provision of suitably located and well-designed street furniture.

Highway Safety

12. The footpath adjoining the appeal site has a straight alignment and its existing width would be maintained. Consequently, any driver would have good visibility of pedestrians travelling along Sycamore Road or emerging from the public footpath that joins Sycamore Road close to the appeal site. Given the limited footprint and height of the proposed cabinets, and the diameter of the proposed street pole, any obstruction of views between drivers and pedestrians would be extremely limited. As such, all highway users would be able to see and anticipate each other's movements if the proposed apparatus were in place and highway and pedestrian safety would be maintained. Furthermore, taking into consideration the scale and position of the proposed apparatus and its distance to the junctions of the nearby accesses, the proposed apparatus would not impede driver visibility to the extent that harm to highway safety would result.
13. As set out above, there is very little before me that demonstrates that the maintenance of the grass verge around the proposed apparatus would not be possible. Moreover, due to the small area of grass verge that would be affected, even if it became overgrown due to a lack of maintenance it would not be to such an extent that it would harm highway safety by impeding visibility. Therefore, in the absence of any substantive evidence to the contrary, I find that adequate accommodation works would be provided around the perimeter of the proposed apparatus and that the highway verge could continue to be maintained following its installation.
14. For the reasons given above, the siting and appearance of the proposal would not have an unacceptable impact on highway safety.
15. UDP Policy EN1/10 has been referenced in the reasons for refusal 2, 3 and 4, however, as this policy makes no reference to highway safety it is not relevant to this main issue.

Other Matters

16. As I have found that the siting and appearance of the proposal to be acceptable, it is not necessary for me to consider the alternative sites that have been suggested by the Council and interested parties, or those that have been assessed by the appellant. In addition, whether the site was chosen on a financial basis is a matter that falls outside of the remit of this decision.
17. Concern has been expressed about the potential effects of the proposed installation on health. The appellant, however, has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines not be complied with or that a departure from national policy would be justified.

Conditions

18. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place. I have not repeated these conditions in my formal decision.
19. The Council have suggested that a condition be imposed stating the development must be begun not later than 3 years beginning with the date of this permission. They have also suggested a condition relating to visibility splays. However, the GPDO does not provide any specific authority to amend the 5-year time limit set out at Paragraph A.3 (11) or for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. Consequently, I have not imposed the suggested conditions.

Conclusion

20. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

Elaine Moulton

INSPECTOR



Appeal Decision

Site visit made on 19 September 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2023

Appeal Ref: APP/T4210/W/22/3310086

Land opposite Brookshaw Centre, Brook Street, Bury BL9 6EB

- 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) Limited against the decision of Bury Metropolitan Borough Council.
 - The application Ref 68818, dated 23 August 2022, was refused by notice dated 17 October 2022.
 - The development proposed is described as 'proposed 5G 15m telecoms installation: H3G street pole and additional equipment cabinets.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions.
3. The provisions of the GPDO require the local authority to assess proposed development solely based on its siting and appearance, taking account of any representations received. My determination of this appeal has been made on the same basis.
4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. Therefore, I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are factors relevant to matters of siting and appearance.
5. I have taken the address of the appeal site from the Council's decision notice rather than the application form as it is a more accurate description of the location.

Main Issues

6. The main issues are:
 - the effect of the siting and appearance of the proposal on the character and appearance of the area and the outlook of nearby occupants; and,

- in the event that harm is identified, whether this would be outweighed by other considerations including the need to locate the installation on the appeal site having regard to the potential availability of alternative sites.

Reasons

Character and appearance

7. The appeal site is part of a footpath that passes through a grassed area of public open space. The open space is identified as Recreation Provision in the Urban Area protected under Policy RT1/1 of the Bury Unitary Development Plan (UDP). Around the public open space are two storey properties, predominantly in residential use, and a small public car park.
8. Whilst there are lampposts, a telegraph pole, a traffic sign and existing cabinets on the edge, no street furniture or trees are located within the space. The open nature of the space offers visual relief from its densely built-up surroundings and positively contributes to the character and appearance of the area.
9. The proposed street pole would be substantially taller than the nearby lampposts and other street furniture. It would also be of a greater height than the two-storey buildings in the vicinity of the site. The scale of the proposed apparatus and its isolated position within the open space and absence of trees to provide screening would result in it appearing as a conspicuous and discordant feature, particularly from the houses that face towards the site.
10. The occupants of 26-32 Brookshaw Street would have a very clear view of the appeal scheme from the front facing windows. In addition, there would be clear views from the first-floor rear facing windows of 8 Hilton Street. Due to the close distance to these residential properties, the proposed apparatus would be dominant and oppressive in such views and would thereby harm the living conditions of such occupants with respect to their outlook.
11. I acknowledge that the proposed street pole is of the lowest possible height required for the improved service need that has been identified in the area. I also acknowledge that the street pole and the associated cabinets are designed to be installed on grass verges and pavements alongside street furniture, where limited siting opportunities exist. Nevertheless, for the reasons given above, the proposed apparatus would unacceptably detract from the character and appearance of the area and would harm the living conditions of nearby occupants.
12. The appeal proposals would not impact on a conservation area or other sensitive receptors. However, this is a neutral factor that does not outweigh the harm that I have found. Furthermore, even if I were to consider that the grey colour of the equipment is appropriate in this location, this would not mitigate the harm to the character and appearance of the area and to the living conditions of nearby occupants that I have identified.
13. For the above reasons, I conclude that the siting and appearance of the proposal would harm the character and appearance of the area and the outlook of nearby occupants. Insofar as they are relevant to siting and appearance, the proposal would conflict with UDP Policies EN1/2, EN1/4 and EN1/10. Such policies, amongst other things, seek to ensure proposals do not have an unacceptable adverse effect on character and townscape, taking into

consideration landscaping and open space provision, and encourage the provision of suitably located and well-designed street furniture. The proposal would also be contrary to paragraphs 115 and 130 of the Framework, which seek to ensure that telecommunications equipment is sympathetically designed and sympathetic to the built environment.

Whether any harm is outweighed by other considerations

14. Paragraph 117 of the Framework states that evidence must be supplied to demonstrate that alternatives have been taken into consideration, including the possibility of erecting antennas on an existing building, mast or other structure.
15. The appellant's submission sets out that no mast/site sharing opportunities or existing buildings/structures were identified. The appellant does not, however, consider and explain why the erection of the proposed equipment on the existing mast, buildings and other structures within the Freetown Business Park is not appropriate. I cannot, therefore, discount mast sharing and erecting antennas on existing buildings as being sequentially preferable alternatives to the appeal proposal.
16. The information submitted as to the reasons why each of the six identified alternative sites are unsuitable is limited to a very brief commentary. One such alternative is nominal location, D1, on Hudcar Lane which is said to be very residential with insufficient pavements when it is, in fact, where Freetown Business Park is located and is predominantly commercial in nature with areas of incidental open space. Another alternative, location D5 is a wide footpath on the corner of Chesham Road and Walmersley Road. No substantive evidence has been provided to demonstrate that the pavement is unsuitable or that siting of the proposed apparatus would impede driver visibility or obstruct pedestrian flows making the footpath unsuitable for the proposals. Therefore, subject to further investigation such sites might reasonably be less harmful to the character and appearance of the area and the outlook of nearby occupants.
17. Consequently, I have insufficient evidence before me to be satisfied that alternative sites have been comprehensively assessed or that the appeal site represents the least harmful option available to meet the additional coverage and capacity requirements and so secure the same public benefits. In that regard it would be contrary to UDP Policy EN1/10, insofar as it is relevant to siting and appearance, and paragraph 117 of the Framework as there is insufficient evidence to justify the proposal.
18. The Framework indicates that planning decisions should support the expansion of electronic communications networks. The proposal is required to address an acute need and to facilitate 5G coverage for the area. I attach positive weight to these benefits and the improved service to users. However, the overall harm caused in respect of the main issue is significant and the benefits of the proposal and other considerations do not outweigh this harm.

Conclusion

19. For the reasons given above, and having regard to all other matters raised, the appeal should be dismissed.

Elaine Moulton INSPECTOR



Appeal Decision

Site visit made on 19 September 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2023

Appeal Ref: APP/T4210/W/22/3309754

Corner of Jubilee Way & Tenters Street, Bury BL9 0AL

- 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 Council.
 - The application Ref 68819, dated 23 August 2022, was refused by notice dated 12 October 2022.
 - The development proposed is described as 'proposed 5G 20m telecoms installation: H3G street pole and additional equipment cabinets.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions.
3. The provisions of the GPDO require the local authority to assess proposed development solely based on its siting and appearance, taking account of any representations received. My determination of this appeal has been made on the same basis.
4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. Therefore, I have had regard to the policies of the development plan only in so far as they are factors relevant to matters of siting and appearance.
5. I have taken the address of the appeal site from the Council's decision notice rather than the application form as it is a more accurate description of the location.
6. An Arboricultural Report (the Report) has been submitted with the appeal, however such information was not before the Council when it made its decision. The Procedural Guide to Planning Appeals – England is clear that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. Therefore, having regard to the Wheatcroft¹ Principles, the

¹ *Bernard Wheatcroft Ltd v Secretary of State for the Environment (JPL 1982 P37)*

acceptance of the Report at this stage would potentially prejudice the interests of other parties. As such, in reaching my decision, I have not had regard to the Report and have determined the appeal based only on the information that was before the Council. Even if I had accepted the survey and taken it into account, for the reasons I shall set out below, the overall outcome of the appeal would be unchanged.

Main Issues

7. The main issues are:

- the effect of the siting and appearance of the proposals on the character and appearance of the area and the outlook of nearby occupants;
- the effect of the siting and appearance of the proposals on highway safety; and,
- in the event that harm is identified, whether this would be outweighed by other considerations including the need to locate the installation on the appeal site having regard to the potential availability of alternative sites.

Reasons

Character and appearance

8. The appeal site forms part of a gently sloping grassed verge adjoining Jubilee Way, a busy urban dual carriageway. The site lies directly in front of a largely complete development of town houses and between two lines of trees. Whilst there are lampposts and traffic signs in the wider area the grass verge within which the appeal site would be located is free from street furniture.
9. Whilst not formally protected through a Tree Preservation Order, the trees adjoining the appeal site, along with the other street trees on Jubilee Way, makes a significant and positive contribution to the character and appearance of the locality forming part of a green corridor along this busy urban route. I have no evidence before me to demonstrate that the trees would be unlikely to survive for many years.
10. It is clear the proposed street pole would be very close to, and would possibly rise through, the canopies of trees that are along the front boundary of the town houses. It is therefore likely that the proposed apparatus would be within the root protection areas of such trees. In the absence of an Arboricultural Report that I can take into consideration, there is no evidence that demonstrates such works would not constrain the root area and/or result in the need to undertake significant pruning works to the tree canopies. Accordingly, the health and/or the appearance of the trees could be significantly and adversely affected by the proposals. For these reasons, it is not certain that the proposed apparatus can be installed whilst ensuring the long-term retention of the trees in a form that would continue to positively contribute to the character and appearance of the area.
11. Views of the street pole and cabinets would be filtered through the trees along the front boundary of the town houses adjoining the appeal site that are under construction. Nonetheless, the proposed apparatus would be directly in the line of sight. The proximity to the front elevation and front gardens of the town

houses would result in the proposals being dominant and oppressive in such views. Consequently, the outlook of the future occupants of such properties would be unacceptably harmed. Such effects would be exacerbated should the canopies of the trees be significantly pruned to accommodate the proposals, or naturally die back over time.

12. Standard machinery may not be suitable for use between the proposed equipment and the adjoining footpaths, making maintenance more difficult. Nonetheless, there is nothing before me that demonstrates that the strip could not be maintained should the proposed apparatus be installed. Furthermore, even if it were not possible to maintain the entire grass verge, only a small area would become overgrown. This would not be to the extent that a material and harmful impact on the appearance of the site or the wider area would arise. This does not, however, outweigh the harm that I have found.
13. I acknowledge that the proposed street pole is of the lowest possible height required for the improved service need that has been identified in the area. I also acknowledge that the street pole and the associated cabinets are designed to be installed on grass verges and pavements alongside street furniture, where limited siting opportunities exist. Nevertheless, for the reasons given above, the proposed apparatus would unacceptably detract from the character and appearance of the area and would harm the living conditions of nearby occupants.
14. The appeal proposals would not impact on a conservation area or other sensitive receptors. However, this is a neutral factor that does not outweigh the harm that I have found. Furthermore, even if I were to consider that the grey colour of the equipment is appropriate in this location, this would not mitigate any impact on the trees and the harm to the living conditions of nearby occupants that I have identified.
15. For the above reasons, I conclude that the siting and appearance of the proposal would harm the character and appearance of the area and the outlook of nearby occupants. Insofar as they are relevant to siting and appearance, the proposal would conflict with Policies EN1/2, EN1/3, EN8 and EN1/10 of the Bury Unitary Development Plan (UDP). Such policies, amongst other things, seek to ensure proposals do not unacceptably affect character and townscape, consider the wider landscape setting, and retain trees.

Highway Safety

16. As set out above, there is nothing before me that demonstrates that the maintenance of the grass verge around the proposed apparatus would not be possible. Moreover, due to the small area of grass verge that would be affected and distance from vehicular traffic, even if it became overgrown due to a lack of maintenance it would not be to such an extent that it would harm highway safety by impeding visibility. Therefore, in the absence of any substantive evidence to the contrary, I consider that adequate accommodation works would be provided around the perimeter of the proposed apparatus and that the highway verge could continue to be maintained following its installation.
17. Accordingly, the siting and appearance of the proposal would not have an unacceptable impact on highway safety.

18. UDP Policies EN1/2, EN1/3, EN8 and EN1/10 have been referenced in the fourth reason for refusal, however, these policies do not relate to highway safety and are not, therefore, relevant to this main issue.

Whether any harm is outweighed by other considerations

19. Paragraph 117 of the Framework states that evidence must be supplied to demonstrate that alternatives have been taken into consideration, including the possibility of erecting antennas on an existing building, mast or other structure.

20. The appellant's submission sets out that no mast/site sharing opportunities or suitable existing buildings/structures were identified. The appellant does not, however, consider and explain why the site of the existing monopole at the junction of Haymarket Street and Angouleme Way is not suitable as a site share. I cannot, therefore, discount site sharing as being sequentially preferable alternative to the appeal proposal.

21. Furthermore, the information submitted as to the reasons why each of the six identified alternative sites are unsuitable is limited to a very brief commentary. One such alternative is nominal location, D1, on Jubilee Way/Tenterden Street. Although it is stated that this site is very residential with insufficient pavements it is, in fact, next to a cleared site, car park and offices with the nearest residential properties being some distance from, and not looking towards that location. Therefore, subject to further investigation this site might reasonably be less harmful to the character and appearance of the area and the outlook of nearby occupants.

22. Consequently, I have insufficient evidence before me to be satisfied that alternative sites have been comprehensively assessed or that the appeal site represents the least harmful option available to meet the additional coverage and capacity requirements and so secure the same public benefits. In that regard it would be contrary to UDP Policy EN1/10, insofar as it is relevant to siting and appearance, and paragraph 117 of the Framework, as there is insufficient evidence to justify the proposal.

23. The Framework indicates that planning decisions should support the expansion of electronic communications networks. The proposal is required to address an acute need and to facilitate 5G coverage for the area. I attach positive weight to these benefits and the improved service to users. However, the overall harm caused in respect of the main issues is significant and the benefits of the proposal and other considerations do not outweigh this harm.

Conclusion

24. For the reasons given above, and having regard to all other matters raised, the appeal should be dismissed.

Elaine Moulton

INSPECTOR



Appeal Decision

Site visit made on 24 October 2023

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 November 2023

Appeal Ref: APP/T4210/D/23/3330060

Lady Margaret House, 51 Prestwich Park Road South, Prestwich M25 9PF

- 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 D Cainer against the decision of Bury Metropolitan Borough Council.
 - The application Ref 69670, dated 19 May 2023, was refused by notice dated 10 July 2023.
 - The development proposed is a double garage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the conservation area.

Reasons

3. The proposal is for a detached garage within the garden of this large semi-detached property. The house lies within the St Marys Conservation Area which although focused on the church and extensive wooded parkland to the north, includes the large detached houses built along the edge of the woodland area along St Ann's Road and the houses to their south, including the appeal property at the junction of St Ann's Road and Prestwich Park Road South. This specific area is residential in character but includes many street trees and mature gardens that ensure that it is the greenery and foliage which contribute most significantly to the character of the area. The properties generally sit relatively comfortably within this landscaped setting. The area includes a number of distinctive period properties which add to the quality of the conservation area including the appeal property and its attached neighbour; and the matching pair of houses to the immediate south.
4. It is evident that the appellant has considered the importance of this property to the wider conservation area. The proposed garage would be set back from the road and at a low level which would reduce its impact. Similarly, the high hedge to the side would ensure that it would not be visible when approaching from the west along St Ann's Road and would be screened to some extent when travelling from the east by the hedge and street trees. The developing

hedge along the Prestwich Park Road South frontage would also reduce its impact. The hipped roof would limit its scale and reflect, to some extent, the detailing of the house.

5. This and the three similar properties to the south, have their main entrances to their side elevations. Although the spaces around these properties and their imposing and symmetrical frontages are particularly important to their appearance, their main entrance features are also of importance. Although each has a different arrangement and detail with regard to each front door, the entrance to each house is of considerable significance with regard to their character. The position of the proposed garage forward of the main entrance feature would detract from its character and reduce its significance. Access to the main entrance would be to the side of the garage diminishing its importance. Its position would also ensure that, despite its lower floor level, it would be viewed immediately alongside the frontage of the dwelling in views from Prestwich Park Road South.
6. As this dwelling has less rear garden than its neighbours, I appreciate the desire to maintain as much as possible of the lawned area of the side garden. I appreciate also that the vehicular access to St Ann's Road has been closed. Situating the garage further back would increase the amount of surfaced area to the side of the property which would also not be positive. However, its currently proposed position, although not dominant as suggested by the council, would detract from the particular characteristics of this house and would ensure that it would also detract from views of it. It would result in harm to the character and appearance of this particular property and it would also fail to preserve or enhance the character and appearance of the conservation area.
7. I am mindful that the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty requiring that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The *National Planning Policy Framework* is clear that any harm to a heritage asset, such as a conservation area, should be weighed against the public benefits of the proposal. In this case, the harm to the conservation area would be less than substantial. As the house currently has sufficient parking and turning space, whilst there are benefits to the provision of garaging, there are no public benefits that are sufficient to outweigh this harm. The proposal would also detract from the character and appearance of this property and the benefits of the proposal do not outweigh this separate harm. It therefore conflicts with the heritage objectives of the *Framework*.
8. The proposal would conflict with policies EN1/1, EN2/1, EN2/2 and H2/3 of the Bury Unitary Development Plan 1997 as it would have a detrimental impact on views of this important building and harm its character; and it would not preserve or enhance the character or appearance of the conservation area. Although now of some age, the policies generally accord with both the design and heritage requirements of the *Framework*.
9. Reference has been made to numerous existing garages and applications approved for garages. Although this proposal must be considered on its own merits, these examples are not directly comparable, particularly with regard to

the relationship of the garage to the frontage of the property and the main entrance to the dwelling.

10. In conclusion, although I have had regard to all the matters put forward, there are none that are sufficient to outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR