

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	22 July 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:	Planning Appeals: - Lodged - Determined Enforcement Appeals - 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 16/06/2025 and 13/07/2025**



Application No.: 71446/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr & Mrs J & C Brown

Location Twine Valley Farm, Church Road, Shuttleworth, Ramsbottom, Bury, BL0 0HH

Appeal lodged: 30/06/2025

Appeal Type: Written Representations

Proposal Installation of a slurry pond

Total Number of Appeals Lodged: 1

**Planning Appeals Decided
between 16/06/2025 and 13/07/2025**



Application No.: 71319/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Apenteng

Location: St John Shuttleworth, Whalley Road, Ramsbottom, BL0 0EF

Proposal: Retention of installed flue on North elevation

Appeal Decision: Dismissed

Date: 25/06/2025

Appeal type: Written Representations

Appeal Decision

Site visit made on 30 April 2025

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 25 June 2025

Appeal Ref: APP/T4210/D/25/3360638

Church House, 254 Whalley Road, Shuttleworth, Ramsbottom BL0 0EH

- 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 Dominic Apenteng against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 71319.
 - The development proposed is retention of installed flue on north elevation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to the former St. John in the Wilderness Church, which is a non-designated heritage asset (NDHA). Planning permissions¹ were granted in 2021 and 2022 for the change of use and conversion of the church into a single dwelling. The works to convert the building have commenced.
3. The development subject of this appeal is an external flue and it was completed in September 2024. As the flue was present at the time of my visit and it corresponds to the submitted plans, I have determined the appeal on the basis that planning permission is sought to retain the development that has been implemented.

Main Issue

4. Therefore, the main issue is the effect of the external flue on the significance of a non-designated heritage asset and the character and appearance of the area.

Reasons

5. The former St. John in the Wilderness Church building dates from the early to mid 19th century. It was originally designed and used as a school but it was subsequently altered and enlarged and converted into a church in 1848. It is a simple rectangular building constructed in coursed stone with a gabled blue slate roof. Of particular relevance to the appeal, its northern gable end features a stone bell-cote, lancet windows with stone trefoil heads, quatrefoil medallions depicting the Evangelists (now eroded) and stone buttresses to the corners. Notwithstanding the alterations, most notably to the eastern elevation and the roof, the early English style church architecture remains legible.

¹ Refs 66744 and 67711

6. The NDHA is set in a large churchyard enclosed by stone walls. It was constructed as part of the development of Shuttleworth and remained in community use for some 170 years, initially as a school and occasional preaching station and then a church until falling out of use around 2017. It forms part of a historic group with the nearby graveyard and Sunday School. Given the above, I find that the special interest of the NDHA, insofar as it relates to the appeal, to be primarily associated with its architectural features which contribute to its historic legibility and special interest as a simple country church at the heart of the village.
7. The stainless steel flue punctures the north gable end wall to exit the building between the windows. It rises vertically between the medallions before angling across the elevation to protrude upwards from the edge of the roof. As such, it does not obscure the windows, medallions or bell-cote. Irrespective, its modern materials, design and siting are poorly related to and out of keeping with the traditional materials and architectural features of the historic elevation.
8. I accept that the fresh metal appearance may tarnish over time to a duller finish, similar to a former metal flue in the eastern roof slope. However, the photographs illustrate that this was itself an incongruous feature, despite apparently being considerably smaller in scale than the appeal flue and exiting through the roof rather than snaking up through the architectural details of the gable end elevation. Even if the flue did achieve a more muted metal finish, it would remain a discordant and jarring feature. Neither the former metal flue nor historic stone chimney in the eastern roof slope provide a justification for the scheme.
9. The NDHA is set back from and elevated above Whalley Road. At times of year when the frontage trees are in leaf, the views of the building will be filtered. Nevertheless, at the time of my visit I was able to observe the flue from locations to the front even with scaffolding to the north elevation. When the trees are not in leaf, and once the scaffolding is removed, the flue would be more conspicuous in the short range views from Whalley Road. Irrespective, vegetation is temporary and it should not be relied upon to screen development from view.
10. The northern elevation and flue are in any case readily visible along Church Road, due to the prominent siting of the NDHA close to the rear boundary. The approved alterations to the east elevation including roof dormer, such as were necessary to facilitate the residential conversion, have resulted in the domestication of that elevation. However, the orientation of the building, the change in ground levels and the boundary wall serve to screen and mitigate the visual impact in views from the rear. In this regard, the rooflights are relatively flush features and the dormer is modest and unassuming when seen in profile in juxtaposition with the north gable end. In contrast, the flue is a prominent and visually obtrusive feature that is not sympathetic to the otherwise historic elevation.
11. The flue is not assimilated into its surroundings, taking into account the visual context comprises the neighbouring traditional stone dwellings and the undeveloped rolling countryside that surrounds the settlement. As such, the modern flue is a discordant and conspicuous feature that does not contribute positively to sense of place or local distinctiveness.
12. Given the above, I find that the flue detracts from the historic and architectural interest and thereby erodes the significance of the heritage asset. It also harms the traditional rural character and appearance of the area. The National Planning

Policy Framework (the Framework) advises that, in weighing applications that affect a NDHA, a balanced judgement is required having regard to the scale of any harm and the significance of the asset. In this case, the appellant considers that the flue results in less than substantial harm to the NDHA and I am in agreement with the parties in that the flue diminishes the significance of the heritage asset.

13. The flue would serve a fireplace in the ground floor study. I understand that the fireplace would be located directly under the central steel of the mezzanine, which prohibits a vertical alignment through the roof. Moreover, an external central flue would obscure the bell-cote. However, there is little evidence that a flue could not be routed internally to avoid the mezzanine supports, that a stove could not be sited elsewhere so that the flue could exit through the roof, or more fundamentally that there are no alternative means of heating the room.
14. No substantive details of the heating system of the converted building have been provided. I accept it would be an attractive feature such as are commonplace in dwellings, but it has not been demonstrated that a solid fuel fire in the study is essential to the residential conversion. I acknowledge the appellant's financial investment and commitment to creating a family home. However, planning permission has already been granted for the conversion and residential use of the building and the works appear to be well advanced. There is little compelling evidence that the building would not be a viable dwelling without a fireplace in the study. The fireplace, and hence the flue, would be a private benefit. In the absence of any substantiated public benefits, on balance this is not sufficient to outweigh the harm to the significance of the heritage asset.
15. Therefore, I conclude that the development does not conserve or enhance the significance of the former St. John in the Wilderness Church NDHA and it harms the character and appearance of the area. It conflicts with Policies JP-P1 and JP-P2 of the Places for Everyone Joint Development Plan for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022 to 2039 Adopted 21 March 2024 and saved policy EN1/2 of the Bury Unitary Development Plan Adopted August 1997. These require, among other things, that development conserves and enhances the historic environment, contributing to the significance of heritage assets and sense of place, and avoiding adverse effects on the character of the area. It would also conflict with the heritage protection and design aims of the Framework.

Conclusion

16. For the reasons set out above, I conclude that the development conflicts with the development plan and there are no material considerations to outweigh that conflict.
17. Therefore, I conclude that the appeal is dismissed.

Sarah Manchester

INSPECTOR

The Ombudsman's final decision

Summary: We will not investigate Mr X's complaint about the Council's planning committee meeting which granted permission for a development on land near his property. There is not enough evidence of fault in the planning process to warrant us investigating. We also cannot achieve the outcomes Mr X wants from his complaint.

The complaint

1. Mr X lives in a property near some open land. The land has received planning permission for residential development. Mr X complains:
 - a) the Council's planning committee was unqualified to make an informed decision on the application;
 - b) the Council's planning officer became aggressive during the debate;
 - c) Council officers directed the committee it had no choice but to grant the permission and warned of legal costs if the applicant appealed a planning refusal.
2. Mr X wants the Council to:
 - review the planning committee meeting and the conduct of officers;
 - re-run the planning meeting with experienced councillors who fully understand the planning process and the impact of their decisions;
 - during that new meeting, tell committee Members that information provided by the planning officer is informed advice and not instructions.

The Ombudsman's role and powers

3. 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)
4. We provide a free service but must use public money carefully. We do not start or continue an investigation if we decide:
 - there is not enough evidence of fault to justify investigating; or
 - we cannot achieve the outcome someone wants.

(Local Government Act 1974, section 24A(6), as amended, section 34(B))

How I considered this complaint

5. I considered information provided by Mr X, the recording of the planning committee meeting, relevant online planning documents, and the Ombudsman's Assessment Code.

My assessment

6. We are not an appeal body. We may only criticise a council's decision where there is evidence of fault in its decision-making process and but for that fault it would have made a different decision. So we consider the processes councils have followed to make decisions. We cannot replace a council's decision with our own or someone else's opinion if the decision has been reached after following proper process.
7. Mr X considers the Council's planning committee was unqualified to make an informed decision on the application. It is not within the Ombudsman's remit to investigate the individual expertise of planning committee members. It is for a council's committee to determine the suitability of members which serve on it. As they are elected members of the public, councillors will have a variety of levels of planning knowledge and experience but would receive advice, guidance and training to help them in their role. The Council's planning committee as a whole was the body making the decision on the application. If any Members were concerned they had insufficient information about any aspect of the application, it was within their powers to defer their decision. They could then have asked officers to provide the information, advice or clarification they felt they needed before the application came back for determination at a later meeting.
8. Mr X believes the Council's planning officer was aggressive during the meeting. I have watched the planning committee's discussion of and decision on the relevant application. Mr X's interpretation of the officer's demeanour may differ because of his opposition to the application the meeting was deciding. But the recording of the meeting provides no evidence that the Council's officer behaved aggressively or said anything aggressive in either tone or content at any time. There is insufficient evidence on this issue to warrant us investigating.
9. Mr X considers the planning officer directed the committee to grant the permission and they had no choice to do so. As explained above, the committee was the decision-making body here, not officers. There is no point within the committee meeting recording when the officer directed Members to grant the permission. The officer responded to questions and advised Members on material planning issues, in line with the position his department had taken in its report to the committee, to recommend approval of the application. That was the officer's role. It was for Members to assess all the information before them, not just the officer's replies at the meeting, to reach their decision. As also previously explained, if they were unsure or unclear on a matter after the debate, they had the option to defer their decision.
10. Mr X also complains an officer warned of possible costs for the Council if the applicant appealed a planning refusal. The context of the legal officer's comments was that a committee Member had proposed a motion to refuse the application. Officers asked the Member to set out what would be the material planning terms for the refusal. The Member did this, the legal officer summarised the proposed refusal reasons and the member agreed the summary. The officer then gave their professional view that the reasons given would not be sustainable at appeal and may be deemed an unreasonable decision which would expose the Council to a

claim for costs from the planning applicant. That was the role of the legal officer: to provide professional advice to members on any course of action they propose. Exposure of the public purse to legal challenge is a consideration for officers and members making decisions on a council's behalf. It was not fault for the officer to provide that advice.

11. We note Mr X considers the officer should have also warned Members that someone opposed to the grant of the permission may also challenge it. But the likelihood of a planning applicant appealing a refusal of a permission is greater than a legal challenge against a grant of permission by another party. This is because the Council's planning decision triggers a formal appeal right to the Planning Inspectorate, a relatively inexpensive and straightforward route to challenge the decision. In comparison, any third party challenging a council decision would have to apply for Judicial Review to a court at significant cost and associated risk. Mr X is concerned the legal advice persuaded a member to abstain from the vote. But that was that member's choice, once the committee had heard the professional advice of the legal officer
12. There is not enough evidence of fault in the actions of officers or Members during the planning process or at the committee meeting to justify an investigation. We recognise Mr X disagrees with the decision. But it is not fault for a council or Members to properly make a decision with which someone disagrees.
13. Mr X wants the Council to review the planning meeting and the actions of its officers. Any review of its planning process or the conduct of an officer would be internal and personnel matters for the Council to decide on. We cannot order councils to conduct such reviews or take disciplinary action against a staff member. Mr X also wants the Council to re-run the planning process. To do this, the Council would need to revoke the permission it has granted. We cannot order councils to overturn planning decisions. That we cannot achieve the outcomes Mr X seeks from his complaint is a further reason why we will not investigate.

Final decision

14. We will not investigate Mr X's complaint because:
 - there is not enough evidence of fault in the Council's planning process to warrant us investigating; and
 - we cannot achieve the outcomes he wants from his complaint.

Investigator's decision on behalf of the Ombudsman

