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# Appeal Decision

Site visit made on 5 December 2023

**by J D Clark BA (Hons) DpTRP MCD DMS MRTPI**

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

**Decision date: 22 January 2024**

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**Appeal Ref: APP/T4210/W/23/3322990**

**Bury Street Works, Bury Street, Bury M26 2GB**

- 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 Cooke of CK Hutchison Networks (UK) Ltd against the decision of Bury Metropolitan Borough Council.
  - The application Ref 69336, dated 8 February 2023, was refused by notice dated 15 March 2023.
  - The development proposed is described as proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, 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. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policies EN1/2 and EN1/10 of the Bury Unitary Development Plan<sup>1</sup> are material considerations as they relate to issues of siting and appearance.
4. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and updated on 20 December 2023. However, there are no material changes in the revision or the update relevant to the substance of this appeal. The Framework is a material consideration including its section on supporting high quality communications.

## Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the surrounding area, the living conditions of the occupiers of surrounding residential properties due to outlook and, if any harm would occur, whether this is outweighed by the need for the

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<sup>1</sup> Bury Unitary Development Plan – Written Statement Adopted by Bury Metropolitan Borough Council 29 August 1997.

installation to be sited as proposed taking into account any suitable alternatives.

## **Reasons**

6. The proposed installation would be located within an area of pavement adjacent to a car park to Radcliffe Hall C of E Methodist Primary School. There are houses on the opposite side of Bury Street and a small cul-de-sac runs off Bury Street to the north of the appeal site to serve Bealey Row which also comprises residential properties.
7. There is signage for the school, street lighting and trees within the surrounding area including two modest sized trees to the south-east of the appeal site and trees in a grassed area to the north-west of the appeal site along with a bus stop. This urban area is characterised by its residential properties not exceeding two-stories in height and the school is a one and two-storey building. The pavement is noticeably wide and the grass verge small and a lack of obstacles within it contribute to the openness of this urban setting.
8. In the context of the low scale of the surrounding buildings and the open appearance of the school car park, the proposed 15 metre high pole would be very intrusive and prominent within the street scene. Moreover, the nearby trees are not sufficiently close to the appeal site to provide any substantial screening and the lighting columns are not especially high to enable the proposed pole to blend in with the existing street furniture. The equipment cabins and pole would appear cluttered within the pavement compared with its current uncluttered appearance.
9. Furthermore, the occupiers of the nearby houses, especially those on the opposite side of Bury Street, would look directly at the installation from their front windows. The 15 metre high pole in particular, would be visually intrusive due to its height and proximity and therefore have a harmful effect on their outlook within this domestic environment.
10. The proposal is required to extend 5G mast infrastructure and the appellant explains that a new site is required to meet the appellant's operational requirements to provide much needed coverage in this densely populated area. Moreover, paragraph 122 of the Framework makes clear that need for electronic communications systems should not be questioned. The intended target/search area has a radius of approximately 100 metres centred on Bury Street. A list of alternative sites are included in the submission together with a plan identifying their location.
11. However, these have been discounted for reasons relating to the area being very residential or for technical reasons relating to the practicalities of their installation with regard to insufficient or unsuitable pavements and visibility splays. I note that the Council has referred to a nearby neighbourhood shopping centre where there are several commercial and industrial buildings which could be used for the installation of equipment. However, although the sequential approach gives priority to existing sites and mast sharing, there is no information before me as to why the Council's suggestion has been discounted.
12. I appreciate that this scheme proposes an alternative to a previous refusal for an 18 metre high pole but from the information submitted, the previous

scheme was on the same site as the one before me now. Therefore, whilst I appreciate that the area is generally densely populated, I am not convinced that a less visually intrusive location could not be found within the wider urban area that would meet the appellant's requirements.

13. Consequently, the proposed installation would have a harmful effect on the character and appearance of the surrounding area due to its siting and appearance and on the living conditions of the occupiers of surrounding residential properties due to outlook and I am not convinced that less harmful alternatives capable of fulfilling the appellant's requirements could not be found.

### **Other Matters**

14. I appreciate the appellant's objectives to follow Government commitment to improving high speed 5G mobile connectivity and the economic and social benefits that would arise from this. However, these matters have not been taken into account in considering the matters of siting and appearance.

### **Conclusion**

15. For the reasons given above I conclude that the appeal should be dismissed.

*J D Clark*

INSPECTOR