



CK Hutchison Networks (UK) Ltd 'Three'

**Planning Appeal Statement of Case for Refusal of Application for Prior Approval for
Proposed Telecommunications site located at:**

Bury Street, Bank Top, Bury, Greater Manchester, M26 2GB

(Cell Reference: BRY21699)

**Bury Metropolitan Borough Council
On behalf of:**

CK Hutchison Networks (UK) Ltd (The Operator).

Against:

Bury Metropolitan Borough Council

Planning Reference: 69336

Date: 25th May 2023

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- Developer's Notice (Owner Notification)
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1.0 Introduction

- 1.1 This appeal has been prepared and is lodged by Dot Surveying Ltd ('agent'), on behalf of the original applicant here C/O Tom Gallivan (in his capacity as an agent), CK Hutchison Networks (UK) Ltd, under Section 78 of the Town and Country Planning Act 1990 against a refusal by the local planning authority, in this case Bury Metropolitan Borough Council 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), for a proposed 15m Phase 9 monopole complete with wraparound cabinet at base and three additional equipment cabinets and ancillary works – to be coloured grey RAL-7035 - at the location identified, as described herein, area of footpath, Bury Street, Bank Top, Bury, Greater Manchester, M26 2GB
- 1.2 My name is Hannah Gibson BSc (Hons), and I am a Planner for Dot Surveying Ltd which is a multi-disciplinary surveying consultancy who specialise in a range of services, including telecommunications. Dot Surveying Ltd acted as the agent for the submission of an application for Prior Approval submitted to the local planning authority here, Bury Metropolitan Borough Council, on behalf the mobile CK Hutchison Networks (UK) Ltd.
- 1.3 An application for prior approval for a proposed 15m Phase 9 monopole complete with wraparound cabinet at the base and three additional equipment cabinets, and ancillary works, was registered by the local planning authority; Bury Metropolitan Borough Council, on the 8th February 2023 under reference 69336. The application sought prior approval for a proposed 15m height free-standing 'slim line' telecommunications pole complete with wraparound cabinet and 3no associated equipment cabinets as detailed below: -
- 1no. 15m high H3G Phase 9 Street Pole with wraparound cabinet – coloured grey RAL-7035;
 - 3no. equipment cabinets
 - cabinet 1 – 600mm (w) x 500mm (d) x 1585mm (h)
 - cabinet 2 – 650mm (w) x 700mm (d) x 950mm (h)
 - cabinet 3 – 1900mm (w) x 600mm (d) x 1752mm (h) (all cabinets to be coloured grey RAL-7035.
- 1.4 The proposed site is an area of footpath lying off Bury Street, Bank Top, Bury, Greater Manchester, M26 2GB. The grid reference for the site is Easting: 379457 /Northing: 407751.

- 1.5 The application was determined under Delegated Powers with a Decision Notice, dated 15th March 2023, to confirm that prior approval is require and refused on the following basis: -

“1 The proposed development would, by reason of its size, position and design, be a prominent and intrusive feature in the street scene and would add to the clutter within the street scene. Therefore, the proposed development would be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:

Policy EN1/2 - Townscape and Built Design

Policy EN1/10 – Telecommunications

2 The application and submitted documents contain insufficient information to enable the alternative sites to be discounted. Therefore, the proposed development would conflict with Policy EN1/10 - Telecommunications of the Bury Unitary Development Plan.

3 The proposed development would be detrimental to the amenities of the neighbouring properties property by reason of its height, size and position. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:

Policy EN1/2 - Townscape and Built Design

Policy EN1/10 - Telecommunications”

- 1.6 In refusing the application, it is our opinion the local planning authority has not fully considered the significant efforts made by CK Hutchison Networks (UK) Ltd to ensure the subject site and proposed design solution strikes an appropriate balance between operational requirements, and the significant improvements enhanced 5G bring and the environmental considerations of all relevant National and Local Planning Policy, including National Planning Policy Framework and the adopted Local Plan.
- 1.7 The area subject to this application is not located within a conservation area or subject to any other such constraints and we therefore do not accept the premise that the proposed new street work pole will have a significantly detrimental impact upon the street scene here. Please note that at 15m this is the lowest mast required for the improved 5G service need identified in the area.
- 1.8 We do not consider that the decision issued by the local planning authority; Bury Metropolitan Borough Council took sufficient or due weight to the importance placed

on enhanced and improved telecommunications infrastructure within Bury Unitary Development Plan, nor the National Planning Policy Framework.

- 1.9 Within this Appeal Statement of Case and the supporting documents we seek therefore to present a case and make arguments which will result in the appeal being allowed, thereby providing the infrastructure deemed essential by the government to bring the benefits of 5G to this part of Bury Street, Bank Top, Bury, Greater Manchester, M26 2GB.

2.0 Brief Overview of Telecommunications

- 2.1 Mobile phones and wireless devices have significantly evolved over the years and access to reliable communications are an integral part of society, both in terms of working and socialising. People are increasingly using their phones and other wireless technology to stream music, watch films and communicate on the move, while many in the current pandemic are working from home. In terms of OFCOM (The Office of Communications), the goal is to achieve comprehensive, high quality coverage across the UK from a choice of network operators. Indeed, the Government recognises that widespread coverage is essential for people and businesses. As a result, mobile operators such as CK Hutchison Networks (UK) Ltd (the Appellant) must continually invest in their networks, to keep pace with ever-increasing demands.
- 2.2 A mobile network is made up of multiple base stations, each of which will transmit and receive radio signals to a particular geographical area. A mobile network is similar to a large jigsaw, with each base station responsible for a specific cell or piece of the jigsaw. A base station will consist of a free-standing structure such as a tower or mast and subject to operational and other limitations, may also be housed upon buildings or other structures.
- 2.3 A brief look at the evolution of mobile networks within the UK: -
- Wireless telecommunications began operating on analogue networks and allowed users to make and receive telephone calls. This early system is referred to as 1G (First Generation)
 - 2G refers to second generation of mobile networks which as opposed to 1G, the radio signal became digitalised. 2G allowed higher data speeds to be achieved (typically 64 kbps) with better quality voice calls. 2G also enabled users to make and receive text and multimedia messages (MMS).
 - 3G – Third Generation or Universal Mobile Telecommunications System (UMTS) was launched in the UK during 2003 and brought much faster data rates of up to 14 Mbps. The new technology allowed users basic internet access and the ability to send and receive e-mails etc.
 - 4G – Fourth Generation was launched in the UK during 2012 and introduced much faster data speeds compared with 3G, allowing users to browse web pages and stream videos/music etc, far more quickly than before.
 - 5G – The first 5G service was launched in the UK during spring 2019 and has the benefit of very fast data speeds with very low latency (delay). In short, 5G is

estimated to be between 60 – 120 times faster than the average 4G latency and has the ability to handle large amounts of data.

- 2.4 While each generation brings technological advantages, due to the higher frequencies utilised, note 5G is expected to revolutionise mobile technology as we know it, the cell areas tend to be far smaller. For example, a 5G cell typically has a smaller radius area, which means the cell search areas are far smaller when compared with earlier network requirements. Consequently, the base stations must be situated within close proximity of the area they are designed to cover and will ultimately require the development of further base stations, sometimes within proximity of designated areas or sensitive locations.

3.0 Cell Area and Description

- 3.1 In accordance with the Communications Act 2003, CK Hutchison Networks (UK) Ltd holds a licence to provide a mobile personal communications network in the UK. CK Hutchison Networks (UK) Ltd has identified a requirement to provide new 5G (Fifth Generation) coverage, improving service in and around the Bury Street, Bank Top, Bury, Greater Manchester, M26 2GB.
- 3.2 A review of the Bury Metropolitan Borough Planning Policy map shows that the site is not subject to any constraints, such as being located within a conservation area or covered by a Tree Preservation Order. We do not consider that the proposed development would detrimentally impact upon the character and setting of this area and we provide further arguments as to why within this Statement of Case.
- 3.3 The intended target/search area has a radius of approximately 100 metres and is centred over the Bury Street, Bank Top, Bury, Greater Manchester, M26 2GB.
- 3.4 A new site is required to meet CK Hutchison Networks (UK) Ltd operational requirements and to provide much needed coverage to this densely populated area. A plan of the intended cell area is outlined in Figure 1, below:

Figure 1 – Plot showing the intended cell/target area relative to other sites within the wider locality.



4.0 Sequential Approach to Site Selection

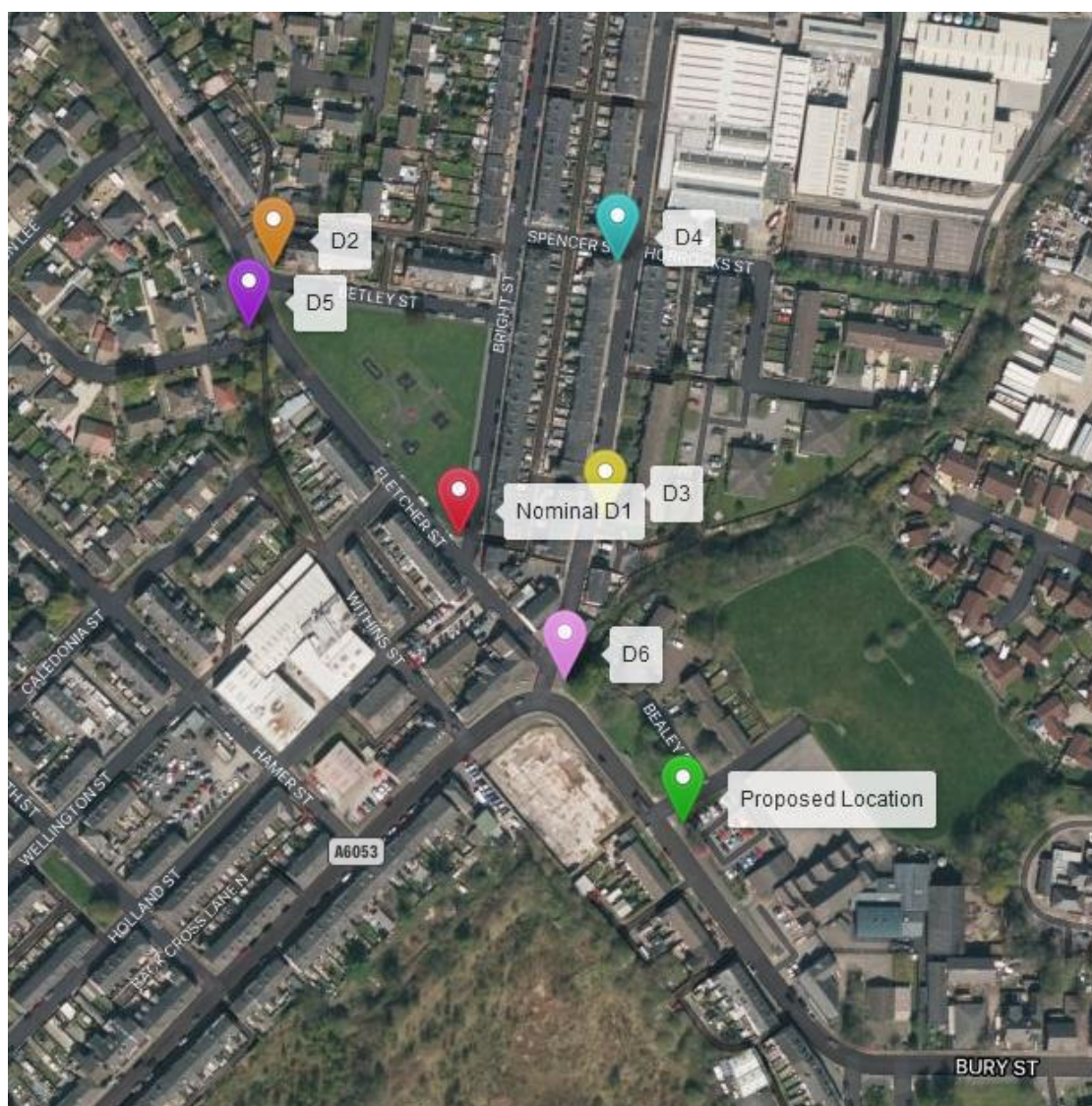
- 4.1 Upon identifying the requirement to provide the target area (cell) with new 5G coverage, the sequential approach as outlined in the National Planning Policy Framework 'NPPF', was adopted. Firstly, consideration was given to sharing any existing telecommunication structures in the immediate area, the utilisation of any suitable existing structures or buildings and finally, the identification of suitable locations for a free-standing (ground-based) installation.

The sequential approach is outlined below:

- a) Mast and site sharing
 - b) Existing buildings or structures
 - c) Ground based installations.
- 4.2 A desktop survey was initially completed before a physical inspection of the area. During this process, no mast/site sharing opportunities or existing buildings/structures were identified. Therefore, a new base station has been sought.
- 4.3 Owing to the constraints of the search area, and general makeup of the locality, a free-standing telecommunications pole with associated ground-based cabinets was quickly considered to be the most appropriate solution and in the right location, would balance the operational requirements of CK Hutchison Networks (UK) Ltd with visual impact upon the surrounding area.
- 4.4 Following a desktop analysis and physical search of the intended target/search area, a proposed location was identified upon an existing section of footpath, lying off Bury Street, Bank Top, Bury, Greater Manchester, M26 2GB please refer to Drawing No BRY21699_MAN634_88055_M1342_GA_REV_C Title 215 Proposed Site Plan for this location. It is this location which forms the basis of the appeal.
- 4.5 There was one other option put forward during the site search process. A map of the intended target/search area is included in Figure 2 (page 11 and 12), along with the location of sites that we discounted. The 'Site Specific Supplementary Information and Planning Justification Statement' prepare by Dot Surveying and submitted to the LPA details the other potential locations which were reviewed and subsequently discounted.

The application site (appeal site) is also indicated.

Figure 2 – Map showing the location of the proposed site for a new mast as refused and discounted sites.



Site	NGR	Discounted Reason
D1 – Bright Street	379367, 407867	Nominal location - very residential with insufficient pavements and visibility splay rest of the search area is the same.
D2 – Betley Street	379293, 407976	This option has been discounted due to unsuitable pavements and visibility splay issues.
D3 – Eton Hill Road	379426, 407873	This option has been discounted due to unsuitable pavements and the location is also in a residential area
D4 – Spencer Street	379432, 407977	This option has been discounted due to unsuitable pavements and visibility splay issues.
D5 – Lynmouth Close	379283, 407951	This option has been discounted due to unsuitable pavements and visibility splay issues.
D6 - Bury Street/Cross Lane	379410, 407809	This option has been discounted due to unsuitable pavements and visibility splay issues.

5.0 The Proposed Scheme & Planning Application

- 5.1 After identifying the site, a detailed survey was undertaken with the aim of producing a set of plans/drawings for submission to the Local Planning Authority. The survey considered an array of items including the site characteristics, visual impact upon the immediate and wider area, impact to pedestrians/road users and CK Hutchison Networks (UK) Ltd operational requirements. Taking all matters into account, a street works pole with cabinets was considered to be an appropriate solution. Firstly, the pole and cabinets are designed to be installed alongside public roads and are often found in such urban locations. Secondly, the site lies in close proximity to lampposts, and trees which we felt would help to reduce any visual impact, while at the same time, achieving operational objectives to bring much needed coverage to the surrounding area. A detailed set of drawings were produced and included a 15m high telecommunications pole c/w wrap-around cabinet with 3no. additional equipment cabinets. The installation has been carefully and sensitively sited. The site is positioned by an area of public open space with residential properties and primary school within the vicinity. The site is positioned on an area of public realm and therefore it is not considered to be significantly or demonstrably detrimental to the amenity of residents.
- 5.2 Pre-consultation was undertaken with the local planning authority; Bury Metropolitan Borough Council on the 8th August 2022, where the drawings were e-mailed to the Local Planning Authority. In addition, further information was also supplied – Site Detail Sheet - to explain the requirement for a new base station within the local area. Please note that we also notified the relevant Ward Members in respect of this proposal.
- 5.3 An application for prior approval for a proposed 15m monopole complete with wraparound cabinet and 3 no additional equipment cabinets was lodged with the Bury Metropolitan Borough Council – via the planning portal web site – on 8th February 2023. As detailed herein, the proposed scheme for this site incorporated a 15m high telecommunications pole complete with wrap-around cabinet and 3no. cabinets (application reference: 69336).

6.0 Planning Policy and Other Material Considerations

- 6.1 In proceeding with the site in question, the overall scheme has been assessed against both national and local planning policies.

National Planning Policy Framework

- 6.2 The Government remains committed to promoting telecommunications and places emphasis on the importance of telecommunications to the wider economy. The National Planning Policy Framework (NPPF July 2018) sets out the Government's planning policies for England and how these are expected to be applied at the Local level. It provides a framework within which local people and their representative Councils can shape distinctive local and neighbourhood plans, which reflect the needs and priorities of their own communities. We note that the most recent National Planning Policy Framework document is dated February 2019.
- 6.3 The purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions of sustainable development, each of which give rise to the need for the planning systems to perform a number of roles including;
- Economic Role - contributing to building strong, responsive and competitive economy;
 - Social Role - Supporting strong vibrant and healthy communities; and
 - Environmental Role - Contributing to protecting and enhancing our natural, built and historic environment.
- 6.4 The NPPF contains at its core a presumption in favour of sustainable development which runs through both plan-making and decision-making processes. The NPPF recognises the vital importance of high-quality telecommunications and dedicates a whole chapter to this area. Chapter 10 of the NPPF outlines the Governments support for high quality communications. The paragraph extracts highlighted below, clearly outline the overarching support from Central Government for telecommunications and how Local Planning Authorities should embrace this vital infrastructure:

Paragraph 112 states:

“Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high-quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should

prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution)."

It continues in Paragraph 113;

"The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate."

The support for telecoms and the need not to constrain Operators is laid out in Paragraph 116;

"Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure."

Local Planning Policy

- 6.5 As stated the Bury Metropolitan Borough Council, within the Decision Notice issued for this application, considered that the design of the pole was considered to be unacceptable in terms of siting.

7.0 Support for the Development

7.1 Reasons for Refusal

The Decision Notice issued by Bury Metropolitan Borough Council for application reference 69336 on 15th March 2023 gave the following reason for refusal:

“1 The proposed development would, by reason of its size, position and design, be a prominent and intrusive feature in the street scene and would add to the clutter within the street scene. Therefore, the proposed development would be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:

Policy EN1/2 - Townscape and Built Design

Policy EN1/10 – Telecommunications

2 The application and submitted documents contain insufficient information to enable the alternative sites to be discounted. Therefore, the proposed development would conflict with Policy EN1/10 - Telecommunications of the Bury Unitary Development Plan.

3 The proposed development would be detrimental to the amenities of the neighbouring properties property by reason of its height, size and position. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:

Policy EN1/2 - Townscape and Built Design

Policy EN1/10 - Telecommunications”

7.2 Need

CK Hutchison Networks (UK) Ltd has identified a need to provide new 5G network coverage to the area in and around the area subject to this application. The proposed site will achieve this coverage objective.

Notwithstanding national planning guidance, Bury Metropolitan Borough recognises the importance of reliable and efficient digital communications to help meet the needs of businesses and communities, enabling business users to efficiently work wherever they are located. Additionally, the council is supportive of high-quality communications infrastructure as it is essential for sustainable economic growth.

It is our belief that the siting of our proposed development would aid in facilitating increased robust, reliable and efficient digital communications for the Bury area.

7.3 The Site

The location is set upon an area of adopted public highway as per the drawings and location plan submitted with the application.

7.4 The Design

The equipment will consist of a 15m high H3G Phase 9 street pole with built-in wraparound cabinet which will sit alongside 3no. additional equipment cabinets. The equipment will occupy a footprint of 1.8 square metres (approximately 4.3sqm) when factoring in the space between the individual items of apparatus. The equipment is designed to be installed upon grass verges and pavements where limited opportunities exist. Furthermore, the pole is designed to fit alongside street furniture including lamp posts, while the cabinets themselves are typical of control boxes commonly found along public highways, such as those within the immediate surround area. Furthermore, and as outlined above, the site benefits from the presence of existing trees, which we consider will further reduce any visual impact.

CK Hutchison Networks (UK) Ltd has taken care in the siting of the proposed mast and cabins (see drawing extracts on page 19) to try to ensure that the proposed siting of the telecom's infrastructure will not have a significantly or demonstrably detrimental impact upon pedestrians using the pavement here. They have also sought to utilise the trees to reduce any impact upon amenity and the character of the area.

The proposed monopole and cabinets will be coloured grey in an effort to assist with assimilation of what is recognised as a 'functional', but essential telecoms infrastructure installation.

On balance we do not consider that the development will have a demonstrably negative impact upon the 'visual amenities' of the street scene here. We do not consider that a 15m pole is dominant or out of scale due to the presence of existing tall street furniture within the vicinity of the site.

Taking both the site and design into consideration, it is considered the nature of the apparatus (telecommunications pole and associated cabinets) will blend into the existing street scene.

- 7.5 We consider that this particular area of adopted land does not have any relevant character which the proposed development will have a detrimental impact upon. Also given the nature of the outlook from residential properties in the vicinity, we do not consider or agree with the Local Planning Authority that the telecoms infrastructure

will have a detrimental impact on the character and appearance of the street scene or amenity.

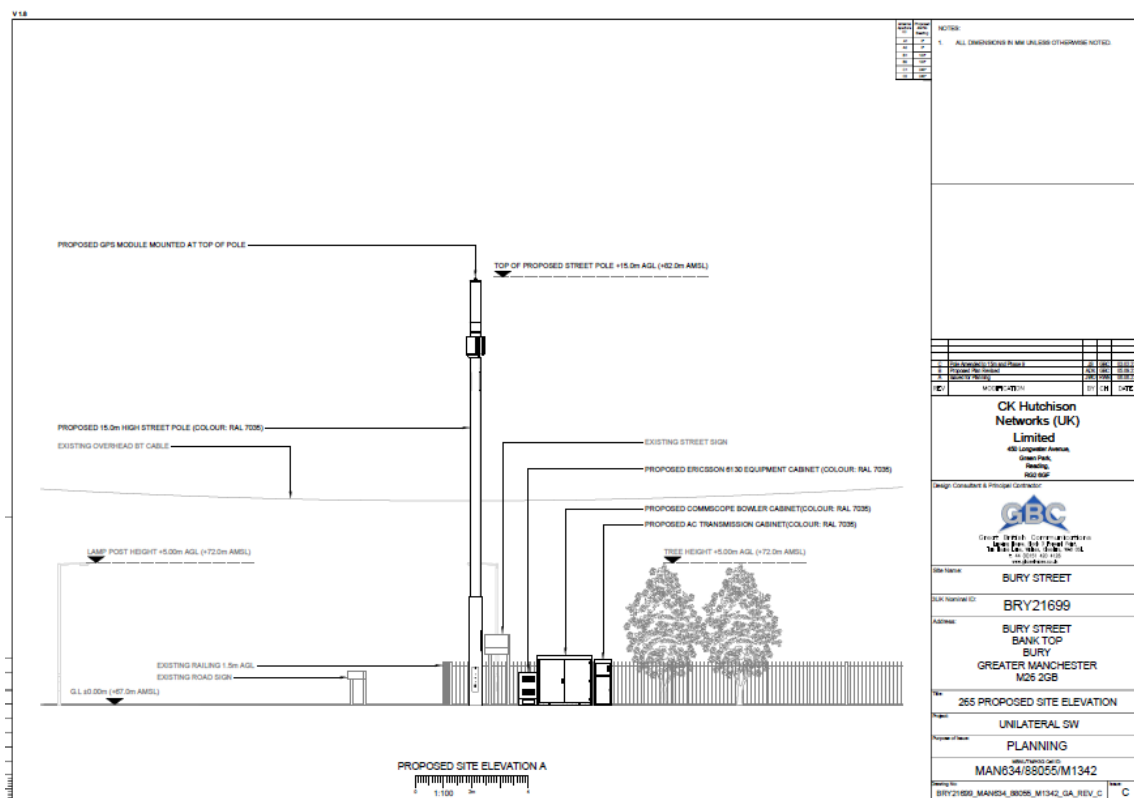
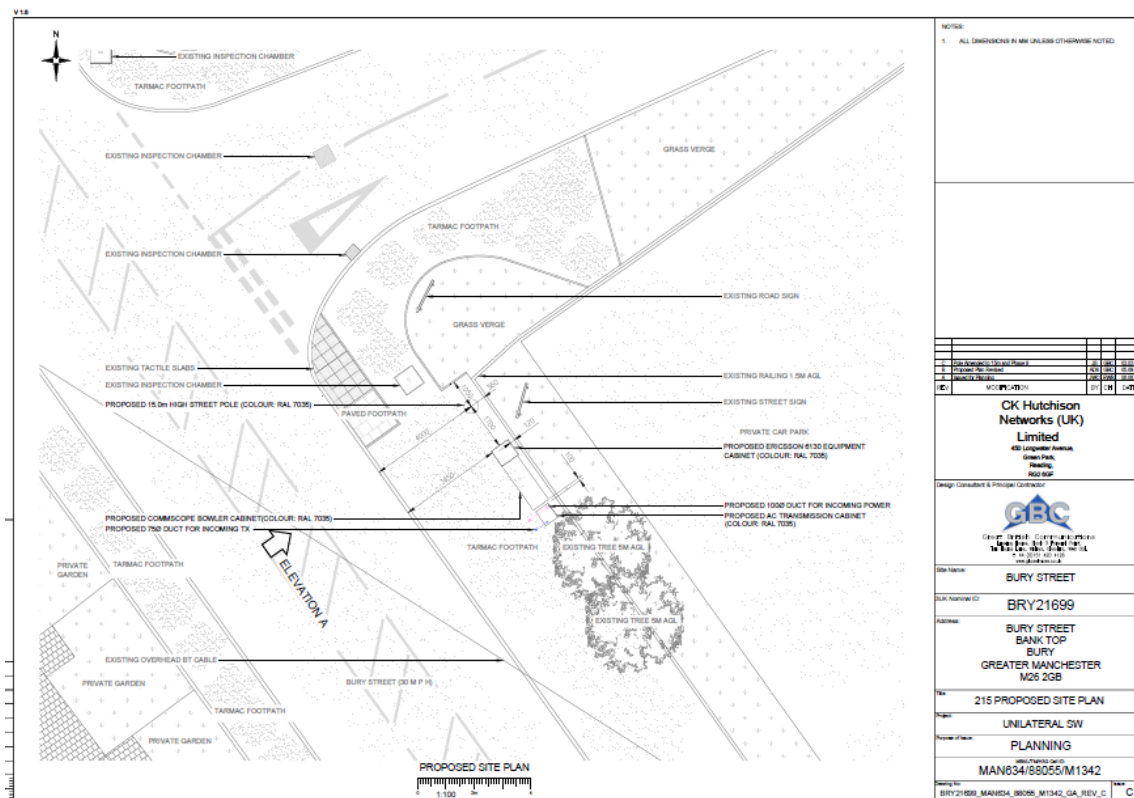
- 7.6 We consider that the evidence provided herein and also the 5G Site Specific Supplementary Information and Planning Justification Statement demonstrates that we have sought to be in compliance with the national and local planning policy.

We note that this is not a conservation area nor subject any environmental designations. We therefore do not agree that this proposal will materially harm the character and appearance of the street scene.

- 7.7 In submitting an application for prior approval, it is considered this has done so in accordance with National and Local Planning Policies: -

- 1) Justification for a new site and the operational requirements to bring new 5G network coverage to the residential area in and around the area subject to the application.
- 2) The adoption of a sequential approach to site selection which involved the completing of a desktop survey and physical search of the intended target/search area to identify suitable locations(s) that minimise impact to the immediate and wider area, including the possibility of sharing existing telecommunications infrastructure.
- 3) The use of a simplistic design which includes a free-standing telecommunications pole and associated cabinets. By their very nature of their purpose monopoles for the nationally important 5G rollout are taller than previous rollouts and are functional in their appearance.
- 4) The use of existing characteristics including wide footpath, existing street furniture and trees to further reduce visual impact and impact to road users/pedestrians.
- 5) The detailing of other sites that were considered and discounted, which were included with the initial and subsequent planning applications.
- 6) The inclusion of an ICNIRP certificate within the initial and subsequent planning applications.

- 7.8 We consider that when the proposed new 15m monopole is considered in the context of its overall proportions given the presence in the immediate vicinity of trees and lampposts, is not overbearing or significantly demonstrably dominant.



8.0 Conclusion

- 8.1 As detailed within the application for Prior Approval and this subsequent Planning Appeal Statement of Case, there is an identified a need to improve existing telecommunications network within the local area by supplying new 5G (Fifth Generation) mobile coverage. Telecommunications has become an integral part of society and the proposed scheme will bring a modern, high-speed communications service to this predominantly residential area where there is an increased demand for 5G particularly given the requirements to work for home during the pandemic. We do not consider that an appropriate weight of the economic and societal benefits of the proposal were given within the Council's decision.
- 8.2 Due to the high frequency and low power output of such installations, the cell areas are generally very constrained. Please note that existing telecommunications sites, structures and buildings, which could potentially accommodate the necessary equipment, were not identified. Therefore, a street works installation was considered to be the most viable solution.
- 8.3 While CK Hutchison Networks (UK) Ltd appreciates there may be a degree of visual impact from the erection of a new ground-based installation, the proposed installation has been carefully positioned to help with assimilation. Furthermore, the installation itself (pole and cabinets) is designed to be deployed upon pavements and verges in such urban locations. In terms of the discreet location and nature of the scheme proposed, it is considered the apparatus will blend into the existing street scene and the overall scheme represents an appropriate balance between visual impact and operational requirements. The mast is, at 15m, at the absolute minimum height which can be deployed to bring the benefits of 5G. We have also coloured the pole and cabinets grey to help assimilation here.
- 8.4 Local Planning Authorities are encouraged to support the expansion of telecommunications and local authorities received written communication from the Department for Digital, Culture, Media and Sport on the 27 August 2021. The letter urged local authorities to provide details of their plans to speed up digital infrastructure rollout. A copy of the letter was included with the planning application and can be viewed in Appendix 2. Clearly, local planning authorities should support the expansion of telecommunications so that everyone can enjoy the same level of access to high quality communications, something which this development will achieve.

- 8.5 Following the refusal of prior approval to implement a new telecommunications installation, which did not refer to the application being deemed to be in conflict with any specific local plan policies, and due to the operational requirements of CK Hutchison Networks (UK) Ltd and the importance of telecommunications in general, we would appreciate if the Planning Inspectorate could give due consideration to the proposed scheme and allow this appeal.