



TOWN & COUNTRY PLANNING ACT 1990

(As Amended)

Statement of Case by Manchester City Council

Appeal by MBNL (for and on behalf of Three UK Ltd.)

**Against refusal of Prior approval for the installation of a 18m high
Telecommunications mast and associated equipment and power cabinets at Footway
At The North Eastern Corner Of Lapwing Lane & Palatine Road Junction
Manchester
M20 6UR**

Planning Inspectorate Ref: APP/B4215/W/23/3318357

Manchester City Council Planning Application Ref: 134901/TEL/2022

1. LOCATION AND SITE

- 1.1 The appeal site currently forms part of the public realm and public footway on the junction of Lapwing Lane and Palatine Road. In close proximity to the appeal site is existing low level street furniture, trees and adjacent is a three storey building formerly in use as a bank but converted on the upper two floors into residential and office accommodation in the early 2010s. The bank use of the ground floor ceased in circ. 2019. The site is located at the most westerly point of the Ballbrook Conservation Area designated in 1991, with the adjacent Blackburn Park Conservation Area sharing an adjacent boundary to the south west along Lapwing Lane. To the north east of the site is the Grade II Listed Building at the Former District Bank Building, at 99 Palatine Road.
- 1.2 The appeal site is located alongside Palatine Road a major arterial route serving south Manchester and connecting with northern routes heading towards Manchester City Centre. It's junction with Lapwing Lane is wide and generally open in character with the terrace of commercial properties located on the north eastern corner of the junction and a large former public house set within landscaped gardens and car parking area to the west. To the south set within a cutting is the West Didsbury Metrolink stop and line that passes underneath the road junction on a north-west/south-east route with the Northern Lawn Tennis club with significant boundary trees further south. To the north-western side of the road junction is an area of landscaped space, this area lies outside of the conservation area and contains two existing telecommunication masts and various cabinets at street level to service them.

2. PLANNING HISTORY

- 2.1 The following applications are of relevance to the current appeal in the vicinity of the application site.

a) 130969/TEL/2021 - Proposed telecommunications installation of 15m Monopole with wraparound cabinet at base and associated ancillary works : Palatine Road, West Didsbury – Refused 24.09.2021 for the following reasons –

1) The City Council is not satisfied that this development has been sited and designed to minimise the impact upon visual amenity of the area. The proposed telecommunication installation by reason of its height, siting and appearance would form a visually intrusive and dominant feature which would be harmful to the visual amenity of the area in particular the appearance of the street-scene and fails to preserve or enhance the character and appearance of the Blackburn Park Conservation Area. As such, the proposed installation is considered contrary to saved policies DC17.1 and DC18.1 of the Unitary Development Plan for the City of Manchester, policies DM1, EN3 and SP1 of the Manchester Core Strategy and the National Planning Policy Framework (NPPF).

2) The proposed development, due to its siting and size, would result in the existing footway serving the West Didsbury Metrolink Stop being reduced in width which would have a detrimental impact on pedestrian movement. The proposal would therefore have an unacceptable impact on highway and pedestrian safety. As such, the proposed installation is considered contrary to policies DM1 and SP1 of the Manchester Core Strategy (2012), saved policy DC17.1 of the Unitary Development Plan for the City of Manchester (1995) and the National Planning Policy Framework (NPPF).

Subsequent appeal dismissed (reference (APP/B4215/W/21/3285778) 10.02.2022 - Appeal decision and associated drawings can be found at Appendix 1

- b) 101888/TEL/2013/S2 - PRIOR NOTIFICATION - installation of 15 metre high telecommunications monopole and associated cabinet following removal of existing monopole and cabinet Location -Footpath Of Palatine Road, Outside Wheeldon Opticians, Didsbury
Approved 18.04.2013
- c) 077195/TEL/2005/S2 - PRIOR APPROVAL for the installation of 15 metre high telecommunications mast with associated equipment cabin, following removal of existing telecommunications mast and equipment cabin
Location - Pipe Bridge , Adjacent To 106 Palatine Road, Didsbury
Approved 28.11.2005

- d) 073187/TEL/2004/S2 - PRIOR APPROVAL for the erection of a 15m high telecommunications pole with associated equipment cabin, to replace existing telecommunications pole.
Location - Footpath At Junction Of Palatine Road And Lapwing Lane Didsbury (northern side)
Approved 26.10.2004
- e) 065713/FO/SOUTH1/02 – Erection of 15 metre high telecommunication column with internal antenna together with equipment cabin
Location - Pavement area opposite the Royal Bank of Scotland, corner of Lapwing Lane and Palatine Road, Didsbury
Refused 30.09.2002
Reasons for refusal
- 1) The proposed telecommunications apparatus by reason of its siting and appearance would form an unduly intrusive feature within the character of the area in general to the detriment of the visual amenity of the Ballbrook Conservation Area. The proposed development is therefore contrary to the provisions of policies DC17 Telecommunications and Dc18 Conservation Areas of the Unitary Development Plan for the City of Manchester.
 - 2) The proposed telecommunications apparatus would be in close proximity to Ewing School on Central Road. The proposal would therefore be contrary to the City Council's policy relating to the location of base stations as approved in July 2000. This policy seeks to protect children who have been identified by 'The report of the Independent Expert Group on Mobile Phones (The Stewart Report)', as the most sensitive and vulnerable section of the population from the possibly harmful health effects of electro-magnetic radiation generated by such base stations.
- f) 069054/TEL/2003/S1 - Prior approval for erection of 12.5m high telecommunications column with two associated equipment cabins
Location - Palatine Road, Near Junction With Ballbrook Avenue, Old Moat
Approved - 29.09.2003

3. DETERMINATION AND DECISION

- 3.1 The prior approval application 134901/TEL/2022 was registered by the Council on the 8th September 2022 and was supported by:
- Completed application forms with declaration dated 1st September 2022;
 - Application drawings (6 page drawing pack with master reference 1214791_MAN284_15550_M0717_M001 Rev A;
 - Declaration of Conformity with ICNIRP Public Exposure Guidelines for Cell No 15550
Cell Name: PIPE BRIDGE LP, Address NW Corner of Lapwing Lane and Palatine Road, Didsbury, Manchester, Greater Manchester, M20 6UR
 - Supplementary Information site ref number MAN284
 - Signed Developers Notice for PIPE BRIDGE AT NW CORNER OF LAPWING LANE AND PALATINE ROAD, DIDSBURY, MANCHESTER, GREATER MANCHESTER, M20 6UR dated 31st August 2022
- 3.2 The application was advertised by means of neighbour notification, with the last date for representations given as the 3rd October 2022 together with a site notice posted on the 14th September 2022, with other consultations taking place with the Council's Highway Services as local Highway Authority and the Ballbrook Conservation Group.
- 3.3 In reaching its decision to refuse prior approval the Local Planning Authority received comments from the Council's Highway Services, and three comments were received from the neighbour notification process objecting to the proposals. All responses have been previously forwarded to the Planning Inspectorate alongside the appeal questionnaire.
- 3.4 Prior approval was refused under delegated powers on the 21st October 2022, for the following reason:
- 1) The City Council is not satisfied that this development has been sited and designed to minimise the impact upon the visual amenity of the area. The proposed telecommunication installation by reason of its height, siting and appearance would form a visually intrusive and dominant feature which would be harmful to the visual amenity of the area in particular the appearance of the street-scene and fails to preserve or enhance the character and appearance of the Ballbrook Conservation Area. As such, the proposed installation is considered contrary to saved policies DC17.1 and DC18.1 of the Unitary Development Plan for the City of Manchester,

policies DM1, EN3 and SP1 of the Manchester Core Strategy and the National Planning Policy Framework (NPPF).

4 THE DEVELOPMENT PLAN

- 4.1 The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long-term strategic planning policies for Manchester's future development.
- 4.2 A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents unless material considerations indicate otherwise. Relevant policies in the Core Strategy and saved Unitary Development Plan are detailed below.
- 4.3 Core Strategy policy SP1 states that the key spatial principles which will guide the strategic development of Manchester to 2027 include: the emphasis is on the creation of neighbourhoods of choice, providing high quality and diverse housing around district centres which meet local needs, all in a distinct environment. Development in all parts of the City should make a positive contribution to neighbourhoods of choice including: creating well designed places that enhance or create character; making a positive contribution to the health, safety and wellbeing of residents considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income; protect and enhance the built and natural environment.
- 4.4 Core Strategy Policy EN 3, Heritage – This policy states that throughout the City, the Council will encourage development that complements and takes advantage of the distinct historic and heritage features of its districts and neighbourhoods, including those of the City Centre.

- 4.5 Policy DM1, Development Management - This policy states that all development should have regard to the following specific issues for which more detailed guidance may be given within a supplementary planning document:-
- Appropriate siting, layout, scale, form, massing, materials and detail.
 - Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.
 - Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.
 - Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
 - Community safety and crime prevention.
 - Design for health.
 - Adequacy of internal accommodation and external amenity space.
 - Refuse storage and collection.
 - Vehicular access and car parking.
 - Effects relating to biodiversity, landscape, archaeological or built heritage.
 - Green Infrastructure including open space, both public and private.
 - The use of alternatives to peat-based products in landscaping/gardens within development schemes.
 - Flood risk and drainage.
 - Existing or proposed hazardous installations.
 - Subject to scheme viability, developers will be required to demonstrate that new development incorporates sustainable construction techniques.
- 4.6 Saved UDP policy DC17.1 relates to Telecommunication installations; it states that applications for telecommunications developments will normally be approved if the Council is satisfied that the development has been sited and designed to minimise its impact on residential amenity and in environmentally sensitive areas. Wherever possible, the Council will expect the potential of existing buildings and masts, including the sharing of such facilities, to be fully explored before agreeing to additional separate development.

- 4.7 Saved UDP policy DC18, Conservation Areas - Policy DC18.1 states that the Council will give particularly careful consideration to development proposals within Conservation Areas by taking into consideration the following:
- a. The Council will seek to preserve and enhance the character of its designated conservation areas by carefully considering the following issues:
 - i. the relationship of new structures to neighbouring buildings and spaces;
 - ii. the effect of major changes to the appearance of existing buildings;
 - iii. the desirability of retaining existing features, such as boundary walls, gardens, trees, (including street trees);
 - iv. the effect of signs and advertisements;
 - v. any further guidance on specific areas which has been approved by the Council.
 - b. The Council will not normally grant outline planning permission for development within Conservation Areas.
 - c. Consent to demolish a building in a conservation area will be granted only where it can be shown that it is wholly beyond repair, incapable of reasonably beneficial use, or where its removal or replacement would benefit the appearance of character of the area.
 - d. Where demolition is to be followed by redevelopment, demolition will be permitted only where there are approved detailed plans for that redevelopment and where the Council has been furnished with evidence that the development will be undertaken.
 - e. Development proposals adjacent to Conservation Areas will be granted only where it can be shown that they will not harm the appearance or character of the area. This will include the protection of views into and out of Conservation Areas.

NPPF (2023)

- 4.8 National Planning Policy Framework (NPPF) - This Framework came into effect on 27th March 2012 and was amended and updated in September 2023. It sets out the Government's planning policies for England and how these are expected to be applied. It defines the Government's requirements for the planning system 'only to the extent that it is relevant, proportionate and necessary to do so'. It provides a mechanism through 'which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities'.
- 4.9 Chapter 2. Achieving sustainable development

Paragraph 7 states the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Paragraph 8 states: Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- An economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- A social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- An environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

4.10 Paragraph 11 states plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 4.11 Chapter 10. Supporting high quality communications. Paragraph 114 recognises that advanced, high quality and reliable communication 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.
- 4.12 Paragraph 115 indicates that “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”.
- 4.13 Paragraph 117 indicates that applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:
- a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and

- b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or
- c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.

- 4.14 Paragraph 118 clarifies that “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.”
- 4.15 Paragraph 197. (Section 16 Conserving and enhancing the historic environment) states that in determining applications, local planning authorities should take account of:
- a. the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b. the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c. the desirability of new development making a positive contribution to local character and distinctiveness.
- 4.16 Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 4.17 Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 4.18 Paragraph 201 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss

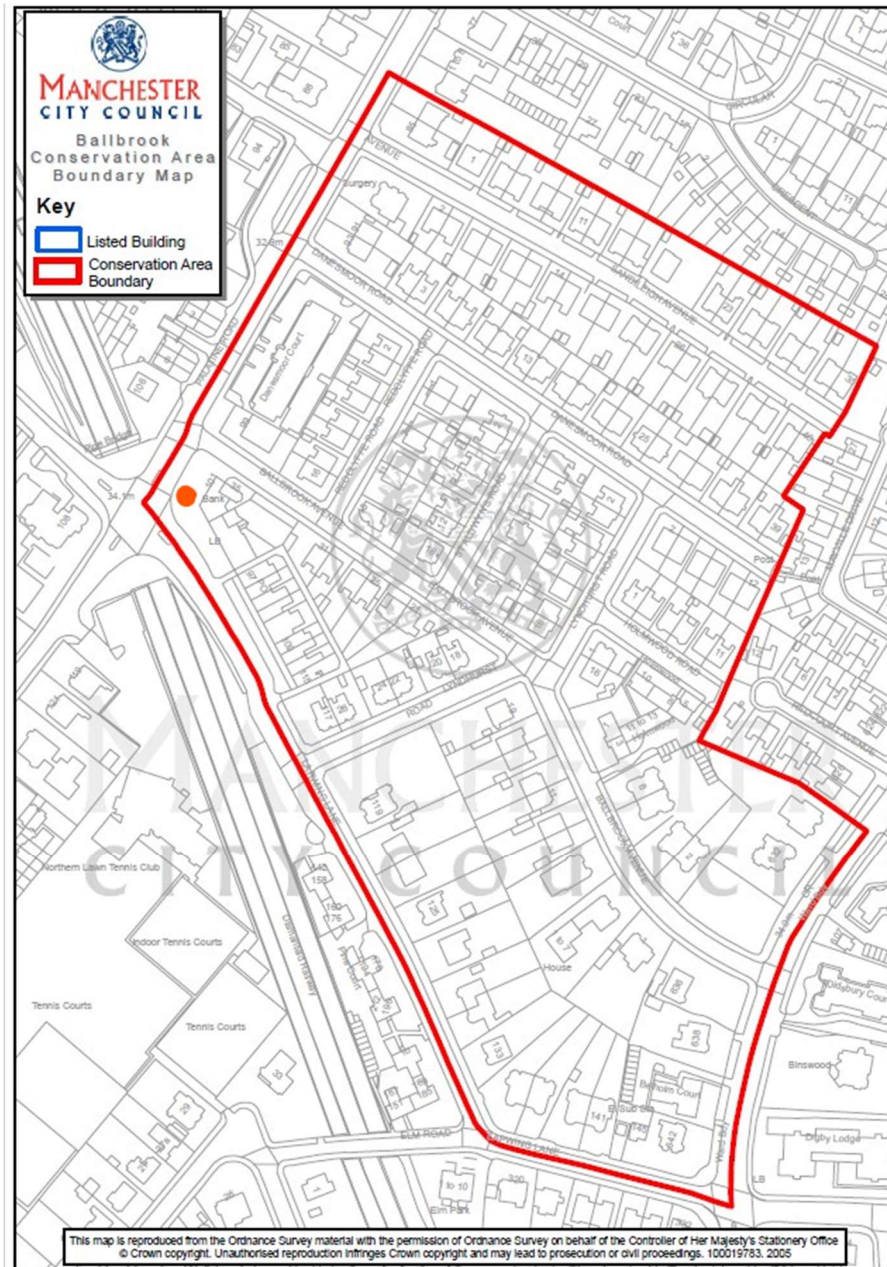
is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

a. the nature of the heritage asset prevents all reasonable uses of the site; and b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c. conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d. the harm or loss is outweighed by the benefit of bringing the site back into use.

- 4.19 Paragraph 202 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 4.20 Paragraph 206 states that local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 4.21 Paragraph 207 states that not all elements of a Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm under paragraph 201 or less than substantial harm under paragraph 202, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area as a whole.

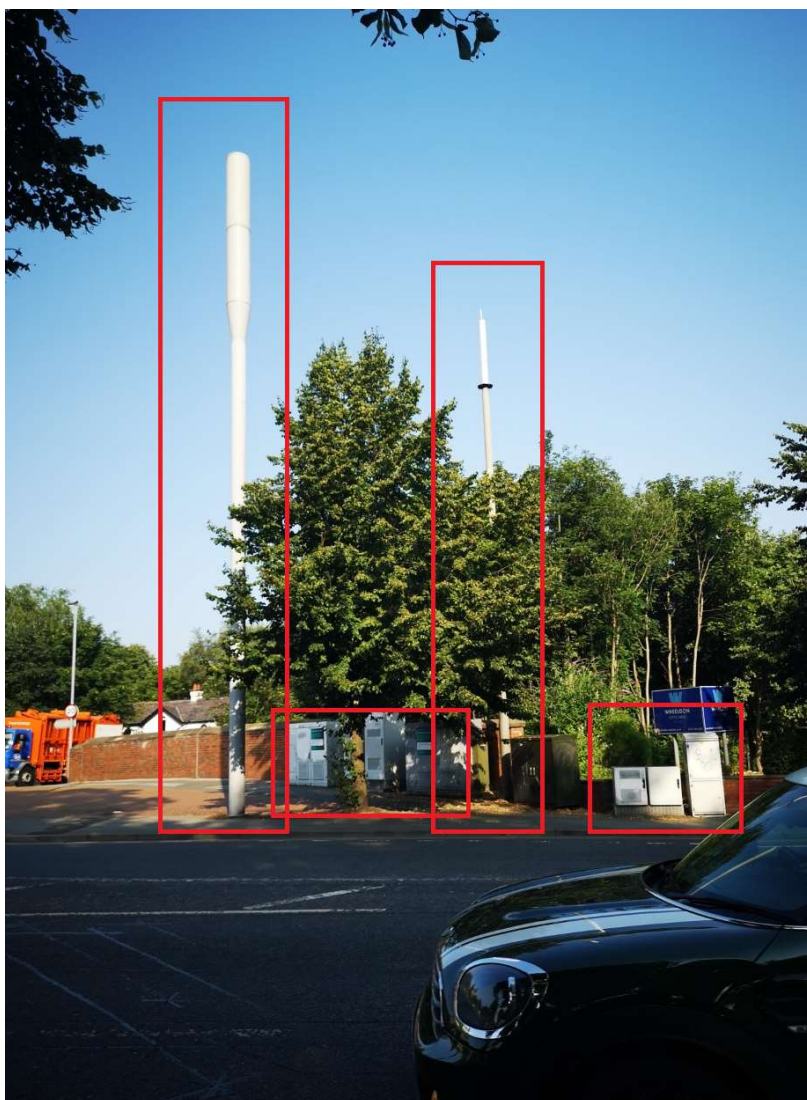
5 STATEMENT OF CASE

- 5.1 The proposals subject of this appeal is for the installation of a 18 metre high telecommunications mast and associated equipment and power cabinets. The mast and 5no. associated cabinets would be located within the Ballbrook Conservation Area (see extract plan below with site identified).



Ballbrook Conservation Area boundary (application site identified as orange circle)

- 5.2 The Council in reaching its decision was mindful of the context of the proposed location of the mast and equipment cabinets particularly in relation to previously approved similar masts as set out within the planning history section of this report and the siting of those masts and associated equipment cabinets to the north-east outside of the conservation area, together with consideration of the character and context of the appeal site.



Previously approved existing telecommunication installations to the north east corner of the Lapwing Lane / Palatine Road junction opposite the appeal site

- 5.3 In this instance the proposal sought to install the mast and equipment within a pavement area at the junction between Lapwing Lane and Palatine Road close to 91 Lapwing Lane a three storey former Bank building. Previous approvals of telecoms equipment within the vicinity of this site are set out at paragraphs 2.1 b) -d), the siting of these approvals had been within an area to the north eastern side of the Palatine Road/Lapwing Lane junction and situated outside of a conservation area. There have been two previous refusals of telecommunication mast proposals in the vicinity of the appeal site (see paragraph 2.1 a & e) for details) these were located within the adjacent Blackburn Park and also the Ballbrook conservation areas with the refusal within Ballbrook CA (2.1 e)) being in close proximity to the current appeal site. The more recent refusal in Blackburn Park CA to the south of the

current appeal was subject to an appeal which was dismissed in February 2022 see Appendix 1 for the appeal decision and associated drawings.

The Reason for Refusal

- 5.4 The Council considered that the positioning of equipment and mast within the appeal site would form a visually intrusive and dominant feature which would be harmful to the visual amenity of the area in particular the appearance of the street-scene and that it would fail to preserve or enhance the character and appearance of the Ballbrook CA.
- 5.5 The application site forms a generous open hard landscaped area of public realm adjacent to the road junction which provides a setting to the character buildings adjacent and nearby to the space and which form landmark buildings to the westerly edge of Ballbrook CA, these include 91 Lapwing Lane and the Listed Building at 99 Palatine Road (Historic England Listing record and location plan were forwarded alongside the appeal questionnaire) . The public realm is interspersed with low level street furniture such as benches, and planters placed within the public realm to provide a clear pedestrian desire line around the corner leading down towards the commercial premises located on Lapwing Lane. A number of mature street trees add to the character of this section of the road junction providing an attractive setting to this corner of Ballbrook CA and the more commercial premises located along Lapwing Lane. This setting is in contrast to the more open setting to the south within Blackburn Park CA and the starker hard landscaped area outside of the conservation areas to the north east of the junction which contains existing telecoms masts and equipment cabinets.
- 5.6 Ballbrook CA was designated by the City Council in 1991 and extends to just over ten hectares bounded by Wilmslow Road to the east, Lapwing Lane to the south-west, Palatine Road to the north-west and Sandileigh Avenue to the north. The extent of the boundary has been previously forwarded with the appeal questionnaire along with the boundary of Blackburn Park CA which lies adjacent to the south. The CA is largely a residential area with large houses built along Palatine Road with three storey Victorian Villas built along the frontages of Wilmslow Road to the eastern boundary of the CA and Lapwing Lane on its south-western boundary from 1897 to 1902. The developers Booth and Britten alongside the architect George Westcott constructed the core of the area during 1910 and 1914 comprising Edwardian Houses but were also behind the development of the terrace of

shops with a cast iron and glass canopy on Lapwing Lane to the immediate south-east of the appeal site. This canopy has been subject to a recent scheme to renovate and replace where necessary and has led to the rejuvenation of these commercial premises.

- 5.7 The appeal proposals are for the installation of a 18m telecommunications mast and equipment cabinets. This structure would appear appreciably taller and bulkier than nearby street lighting columns and other highway structures associated with the pedestrian crossing and junction. The application drawings show the mast being just under 8 metres taller than the adjacent three storey buildings with the equipment cabinets ranging in heights and depths with the largest being 1.9m wide and 1.7m tall. Due to the location of street trees the mast and equipment cabinets would be set back within the landscaped area accentuating its prominence from other tall slimline highway structures and together with the positioning of 5 equipment cabinets, would dominate the landscaped area and severely depreciate the experience of pedestrians at street level. The positioning of the mast and cabinets would also diminish views through this space particularly northwards towards the gable end of the Listed Building at 99 Palatine Road. Whilst existing trees would lead to some screening of parts of the mast structure, due to its height and appearance it would be readily visible within the streetscene, nearby examples such as further to the north along the western side of Palatine Road and immediately opposite show that whilst placement can reduce visual impacts such structures are readily visible within the streetscene. As such, the impacts at the appeal site which is located within the Ballbrook CA adjacent to historic and character buildings forming the western edge to the CA boundary, are considered to be unacceptable creating a significant and harmful impact to the visual amenity of the area.



Approximate location and height of proposed mast viewed from Palatine view looking northwards

6. RESPONSE TO APPELLANTS STATEMENT OF CASE

- 6.1 The appellant's statement of case at paragraph 1.9 refers to "The specific design parameters of the mast will enable the operators to enhance the mobile digital connectivity in the area and to concentrate on utilising a grass verge already characterised by telecommunications infrastructure in the general vicinity". This is clearly incorrect, the appeal site nor nearby sites are characterised by grass verges.
- 6.2 Paragraph 2.11 sets out to explain reasons as to why the existing base station location outside of the CA is not suitable for upgrade and references tight space between cabinets preventing the installation of a mast and cabinets in this location. As set out within the application submission the proposals seek the removal of the appellants existing mast and associated cabinets as identified on drawing reference 250a 'Proposed Shared Elevation A'. The removal of this equipment and mast does not appear to have been taken into account in reaching the conclusion made within the appellant's statement.
- 6.3 Paragraph 2.12 of the statement identifies that the appellant undertook pre-application consultations with the local community and their representatives. Copies of this pre-application consultation are contained within Appendix 2 to this statement. This includes the email from the appellant sent on the 18 July 2022 together with the attachments referenced in that email consisting of: Consultation letter to the LPA dated 18th July 2022, a location map, and a schedule of consultation. The consultation letter is titled as "Preconsultation – Upgrade to Existing Radio Base Station Installation at MBNL MAN284, Pipe Bridge LP, Pavement to NEE of Pipe Bridge on NW Corner of Lapwing Lane Manchester M20 6UR, NGR E: 384383 / N: 392114", the Easting and Northings referenced within this letter are presented within Appendix 2, this identifies the existing location of the appellants telecoms mast and equipment on the opposite site of Palatine Road from the appeal site. The appellants pre-consultation letter sets out the option and states:

"The proposal relates to the removal of [sic] the installation of a new 20-metre-high monopole supporting 6 no. antennas with a wraparound equipment cabinet at the base of the column, the installation of 3 no. new equipment cabinets and ancillary development thereto. As this is an existing ground based installation and the amendments are minor in

nature, this is sequentially the most preferable site for the operators to upgrade their existing service provision to this cell area. As such no other options have been considered.”

- 6.4 Given the subsequent submission of the appeal proposals, the City Council as local planning authority questions whether the consultation undertaken by the applicant was compliant with paragraphs 73 and 74 of the Code of practice for wireless network development in England Published on 7 March 2022 (Appendix 3). This pre-application consultation submission was deficient given the details contained within the subsequent prior approval application where the proposals seek the installation of a new base station in a differing location to that divulged and set out within the submitted consultation documents. Clear and precise pre-application consultation is required in order to properly inform those being engaged in the consultation and to enable informed responses, this the Council contends was not undertaken in this case.
- 6.5 Paragraphs 3.5 and 3.6 criticises the delegated officer reports assessment of the proposals. Reference is made to paragraph 4 of the issues section of the report and assessment of visual impacts in respect of other telecommunication masts on Palatine Road. It is agreed that this paragraph could have been clearer but references to other telecommunication masts on the opposite side of Palatine Road is accurate. There is an existing mast that would be retained if the appeal proposals were installed on the opposite side of Palatine Road but another 20m high telecoms mast is also situated on the opposite side of Palatine Road to the north of the existing mast site. The following paragraphs of the assessment within the delegated officer report are clear in setting out the assessment of the proposals and identifying the harm considered to arise from the proposal in terms of impacts on the CA and visual amenity at the appeal site. This is then reflected in the wording of the reason for refusal which does not include visual clutter in this instance.
- 6.6 Paragraph 4.14 sets out how the proposals seek to address paragraph 117 of the NPPF and the three areas of necessary evidence required to justify a proposed development. The appellant indicates that point a) relating to pre application consultation was carried out. The Council would refer to paragraphs 6.3 and 6.4 above in relation to the deficiencies in the appellants consultation exercise and whether this was carried out in accordance with the relevant parts of the Code of Practice for wireless network development. In respect of point b) the applicant submitted an ICNIRP certificate alongside the application, whilst matters of whether this could be relied upon as part of the prior approval application were not raised

with the appellant it is noted that both the address and Eastings and Northings within the ICNIRP appear to refer to the existing mast location on the north-western side of the Lapwing Lane /Palatine Road junction. In relation to part c) of paragraph 117 and evidence that using an existing building, mast or other structure has been explored the appellant statement directs to paragraphs 2.8 - 2.13 of its statement. These paragraphs outline the refusal of a previous proposal in the vicinity of the appeal site to the south, that the existing mast is incapable of upgrading, and that a new monopole could not be placed in a tight space between cabinets. This assessment appears to ignore that the appeal proposals are to remove the existing mast and cabinets or that a large section of this area on the opposite side of the road does not sit directly above the void section of the railway bridge. No evidence has been provided that the appellant has had any discussions with the Metrolink operator around the feasibility of installing in this location and potential incumbrance from the bridge structure.

- 6.7 A number of other appeal decisions have been submitted as relevant to the consideration of this appeal by the appellant. None of these are in Manchester City Council's area, all have differing contexts and relationships to existing buildings, highway structures etc and non are located within designated Conservation Areas. The conclusions to be drawn from these decisions can therefore only be given limited weight. In contrast the recent appeal decision to the south of this appeal site as set out in Appendix 1, also within a Conservation Area is of relevance to consideration of the matters to be considered as part of this appeal, as are consideration of the specific impacts arising from the appeal proposals in this location and the overall planning balance.
- 6.8 The appellants statement set out the public benefits deriving from the application proposals together with a government priority being to upgrade digital telecommunications. The City Council supports the requirement to upgrade telecommunications infrastructure and saved Unitary Development Plan policy DC17.1 provides such an approach. Whilst it is accepted that such structures are becoming more common place, the siting within a conservation area, which by their definition are more sensitive to visual harm, is of significance in the planning balance in this case. The Council does not, therefore accept that the installation of a 18m high telecoms mast in such a location is comparable to existing street furniture or the existing buildings which form an intrinsic part of the character of the conservation area.

7. CONCLUSION

- 7.1 As set out in this appeal statement, the City Council believes that the proposals would form a visually intrusive and dominant feature which would be harmful to the visual amenity of the area in particular the appearance of the street-scene and fails to preserve or enhance the character and appearance of the Ballbrook Conservation Area. It is not considered, in this instance, that the identified harm is outweighed by the benefit derived from the provision of 5G mobile technology infrastructure indicated by the appellant.
- 7.2 The NPPF states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. As it has been demonstrated within this statement the proposal is considered to be contrary to policies DM1, EN3 and SP1 of the adopted Core Strategy, saved policies DC17.1 and DC18.1 of the Unitary Development Plan for the City of Manchester (1995) and there are no other material considerations to outweigh the harm identified, the Inspector is respectfully requested to dismiss the appeal.

APPENDIX 1 – Appeal decision

APP/B4215/W/21/3285778 and proposal drawings



Appeal Decision

Site visit made on 31 January 2022

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

an Inspector appointed by the Secretary of State

Decision date: 10 February 2022

Appeal Ref: APP/B4215/W/21/3285778

Palatine Road, West Didsbury, Manchester, Greater Manchester M20 6UT

- 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 Manchester City Council.
 - The application Ref 130969/TEL/2021, dated 25 June 2021, was refused by notice dated 24 September 2021.
 - The development was originally described as proposed telecommunications installation: Proposed 20.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above is taken from the application form. The scheme was amended during the application process and the height of the monopole was reduced to 15m. I have determined the appeal accordingly.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan¹ and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

¹ Including Policies DM 1, EN 3 and SP 1 of the Manchester's Local Development Framework: Core Strategy Development Plan Document (2012) and Policies DC17.1 and DC18.1 of The Unitary Development Plan for the City of Manchester (1995)

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 area, having regard to the Blackburn Park Conservation Area (CA);
 - highway and pedestrian safety; and
 - if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Character and appearance

6. The proposed installation would be located towards the back edge of the footway close to the junction of Palatine Road and Lapwing Lane as well as West Didsbury Metrolink stop. Within the vicinity of the site is existing street furniture and buildings are mainly 2-3 storeys high.
7. The appeal site is located within the CA. From the evidence before me, the houses built along Palatine Road constituted the first phase of development in Blackburn Park. This section of the CA is characterised by primarily residential and commercial buildings as well as the busy junction and Metrolink. Buildings vary in style and materials.
8. The appellant asserts that the associated ancillary cabinets are within the size limits to be classified as permitted development and should not be considered as a reason for refusal. Nonetheless, the proposal before me relates to the whole installation.
9. The monopole would be taller than the existing street furniture, including trees and streetlights. I understand that the design of the monopole is dictated by technical considerations, and it is essential for the pole to be 15m high to enable local provision and clear surrounding buildings.
10. The scheme would be visible from various vantage points because this section of the pavement is wide and open. Although there are 3 storey buildings within the surrounding area, the monopole has limited visual connection with these buildings. By reason of the monopole's height, siting and appearance it would stand out as a dominant feature because of the open nature of the immediate surrounding area. The scheme would therefore appear as an obtrusive and incongruous addition to the local street scene.
11. Framework paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where there is less than substantial harm, this harm should be

weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

12. The harm arising to the CA would be localised and less than substantial, nevertheless it is of considerable importance and weight. Paragraph 114 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Furthermore, planning decisions should support the expansion of electronic communications networks. The need for the installation weighs in favour of the appeal and I acknowledge the benefits of the scheme including those set out in figure 3 of the appellant's appeal statement.
13. Whilst I do not dispute the benefits of enhancing connectivity, I observed on my site visit, and the Council and residents have highlighted, that other similar structures have been installed on the opposite side of the road. These are located outside of the CA. The Council has also provided a copy of a letter they have received (dated 5 October 2021) relating to a Regulation 5 notice and intention to utilise permitted development rights to upgrade the existing installation. The appellant has not commented on this letter.
14. I acknowledge that site D2 was discounted because of an existing monopole being situated in this location and siting the installation close to existing masts would cause interference. It is unclear from the appellant's submission whether this structure has been discounted as an option for upgrading and for what reason. Given that I am not convinced that the appellant has adequately explored whether there may be less harmful alternatives, it has not been demonstrated that the public benefits could not be achieved by siting the monopole elsewhere. This matter is dealt with in more detail below. Thus, based on the information presented, it is my overall view that the need for a new monopole does not in this case, outweigh the harm, having regard to paragraph 202 of the Framework.
15. Consequently, the proposal would have a harmful effect upon the character and appearance of the area and would not preserve or enhance the CA.

Highway and pedestrian safety

16. As set out above, the scheme would be situated towards the rear of the pavement and adjacent to the Metrolink stop. I acknowledge that the pavement is well used because of the nearby Metrolink stop. The existing street furniture, including bench, railings and street trees, already impact pedestrian movement.
17. The proposal is likely to impact pedestrian movement as it would result in a narrower gap between the installation and the tree due to the siting of the monopole and associated cabinets. The distance between the scheme and tree would be slightly below that recommended in the Council's Design for Access 2 (2003) document. Nevertheless, there would still be sufficient space between the existing street furniture and the scheme due to the width of the pavement. Therefore, the installation would not compromise the ease or safety of use of the pavement for pedestrians or other users of the footway.
18. Accordingly, the siting and appearance of the proposal would not have an unacceptable effect on highway and pedestrian safety.

Suitable alternatives

19. Paragraph 117 of the Framework sets out that applications, such as that proposed, should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
20. The appellant asserts that the cell search area is extremely constrained, and the only viable option has been put forward. I have had regard to the Site Specific Supplementary Information and the discounted options.
21. As set out above, there are other similar structures within the vicinity of the site which are located outside of the CA. It is unclear whether they have been discounted as an option for upgrading and for what reason. For example, whether mast sharing is not technically feasible. The Council did not suggest alternative sites during the pre-application consultation. Nonetheless, the Council and residents refer to the other masts and question the need for an additional telecommunications installation. The appellant has not clearly addressed this matter and has not explained why a further new mast is required in this location.
22. Consequently, based on the evidence presented, I am not satisfied that the appellant has conducted a thorough review of possible options within the search area or adequately explored whether there may be less harmful alternative sites. As such, the harm I have identified above is not outweighed by the need for the installation to be sited as proposed.

Other matters

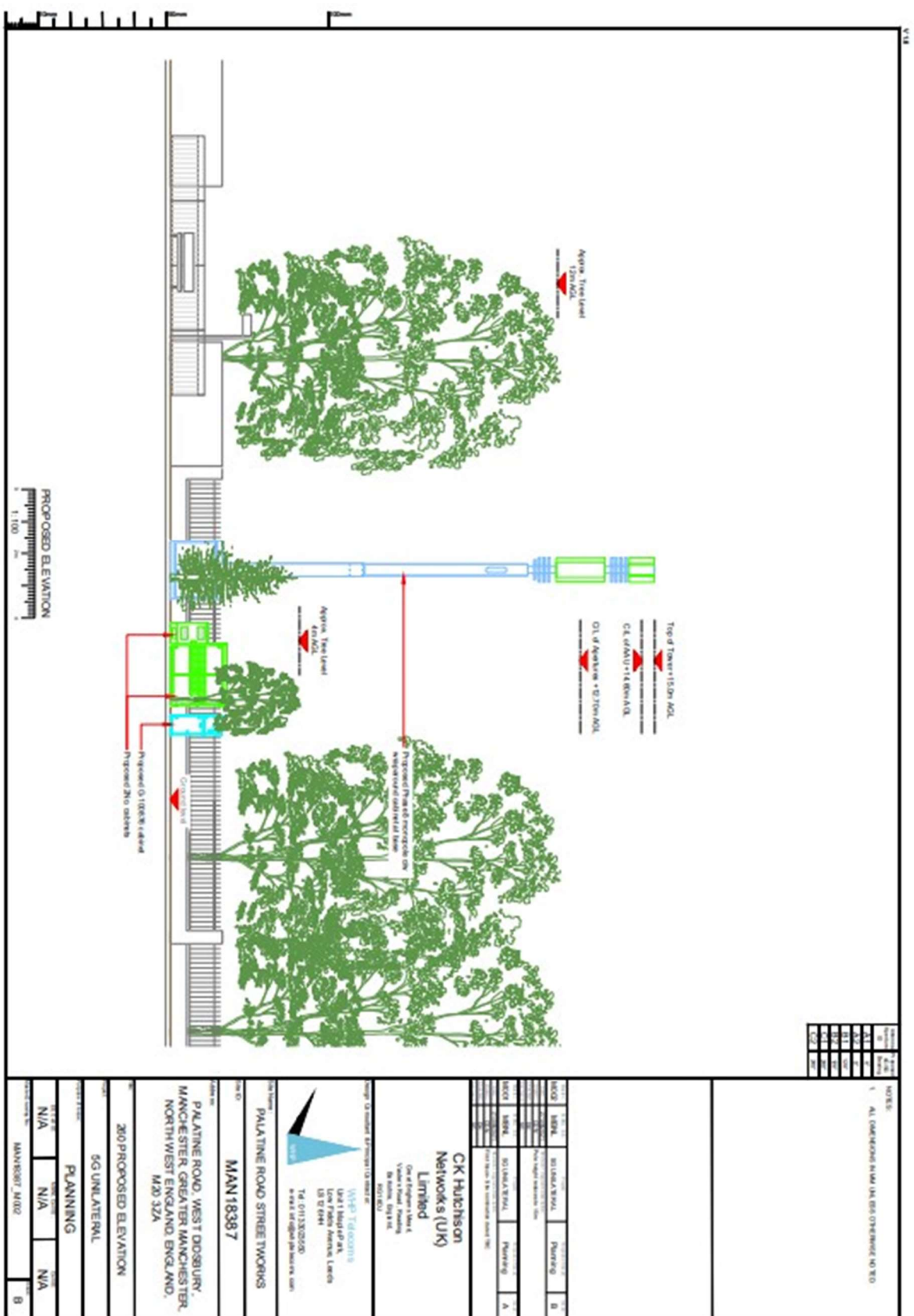
23. I acknowledge the other matters highlighted including Future Telecoms Infrastructure Review, Letter to Chief Planning Officers: Planning for Growth and a condition relating to colouring of the equipment. However, these matters do not justify the harm identified above.
24. The appellant has referred to the former District Bank and the former Withington Town Hall which are listed buildings. The Council raise no concerns in respect of the effect of the development on the setting of those listed buildings, and I have no substantive reason to consider otherwise. Given the distance to these listed buildings and the intervening built development, I am satisfied that the proposal would not harm the significance of the designated heritage assets. This is a neutral consideration and does not weigh in favour of the appeal.

Conclusion

25. Although I have found that the scheme would be acceptable in terms of highway and pedestrian safety, it would have a harmful effect upon the character and appearance of the area and would not preserve or enhance the CA. The harm I have identified is not outweighed by the benefits of the scheme or the need for the installation to be sited as proposed.
26. For the reasons given above, I conclude that the appeal does not succeed.

L M Wilson

INSPECTOR



APPENDIX 2 – Pre-application consultation undertaken by appellant and submitted documents

- Consultation Letter
- Consultation plan
- Location map provided by appellant
- Grid reference finder result for E:384383 N:392114 demonstrating site identification provided by appellant at pre-application consultation



Clarke Telecom Limited
Unit E, Madison Place, T: +44 (0) 161 785 4500
Northampton Road, Manchester,
M40 5AG, UK F: +44 (0) 161 785 4501
www.clarke-telecom.com

Our ref: MAN284

The Chief Planning Officer
Manchester City Council
planning@manchester.gov.uk

Via Email

18th July 2022

Dear Sir or Madam,

PRECONSULTATION – UPGRADE TO EXISTING RADIO BASE STATION INSTALLATION AT MBNL MAN284, Pipe Bridge LP, PAVEMENT TO NEE OF PIPE BRIDGE ON NW CORNER OF LAPWING LANE MANCHESTER, M20 6UR, NGR E: 384383 / N: 392114

Clarke Telecom Ltd act on behalf of the mobile telecommunications operator MBNL. MBNL undertakes the management and network deployment of telecommunications sites on behalf of both EE (UK) Ltd and Three (UK) Ltd. The proposal is for the upgrade of the above existing MBNL and EE Ltd site, in order to provide the latest 4G and new 5G technologies to the Manchester area.

As part of MBNL's continued network improvement program, there is a specific requirement for an upgrade to the ground based installation at Pipe Lane LP to ensure that the latest high quality 2G, 3G and 4G service provision continues to be provided in this area of Manchester. The proposed works will also ensure that new 5G coverage can also be provided at this location. This ensures that coverage and capacity requirements are maintained with the minimalist of amendments to an established radio base station.

This letter therefore invites the Local Planning Authority and stakeholders, in accordance with planning policy guidance and Best Practice Commitments, to enter into pre-application discussions with regard to our preferred site option prior to a formal planning submission. Several steps in the site identification process have already been undertaken. The Local Planning Authority mast register and our records of other potential sites have been reviewed, the policies in the Development Plan have been taken into account and we have examined the inter-operator site sharing database.

Mobile telecoms networks are now ubiquitous throughout the UK. It is an expectation that an individual can connect and use their mobile phone whenever and wherever they are. With the advent of new technology, under the banner of 5G, further advances are proposed and Central Government has seen the telecoms industry, and in particular 5G, to be at the forefront of economic development.

The proposed works will enable 5G coverage to be provided to this area of Manchester. The Government recognises that widespread coverage of mobile connectivity is essential for people and businesses. That is why the Government is committed to extending mobile geographical coverage further across the UK, with continuous mobile connectivity provided to all major roads and to being a world leader in 5G. This will allow everyone in the country to benefit from the economic advantages of widespread mobile coverage.

As well as improved mobile signal, 5G networks are also crucial to drive productivity and growth across the sectors that local areas are focusing on through their emerging Local Industrial Strategies. Enabling and planning for 5G implementation is central to achieving the Government's objective to deliver prosperity at the local level and enable all places to share in the proceeds of growth.



Clarke Telecom Limited
Unit E, Madison Place, T: +44 (0) 161 785 4500
Northampton Road, Manchester,
M40 5AG, UK F: +44 (0) 161 785 4501
www.clarke-telecom.com

5G service provision will bring faster, more responsive and reliable connections than ever before. More than any previous generation of mobile networks, it has the potential to improve the way people live, work and travel, and to deliver significant benefits to the economy and industry through the ability to connect more devices to the Internet at the same time, the 'Internet of Things'. This will enable communities to manage traffic flow and control energy usage, monitor patient health remotely, and increase productivity for business and farmers, all through the real-time management of data.

The demand for mobile data in the UK is increasing rapidly, and as households and businesses become increasingly reliant on mobile connectivity, the infrastructure must be in place to ensure supply does not become a constraint on future demand.

The upgraded base station will also meet the extra demands on the network in this area as more people use internet enabled handheld devices.

The preferred MBNL option is as follows:

MAN284, Pipe Bridge LP, PAVEMENT TO NEE OF PIPE BRIDGE ON NW CORNER OF LAPWING LANE MANCHESTER, M20 6UR

The proposal relates to the removal of the installation of a new 20-metre-high monopole supporting 6 no. antennas with a wraparound equipment cabinet at the base of the column, the installation of 3 no. new equipment cabinets and ancillary development thereto.

As this is an existing ground based installation and the amendments are minor in nature, this is sequentially the most preferable site for the operators to upgrade their existing service provision to this cell area. As such no other options have been considered.

The proposal for this MBNL site has been designed within International Commission on Non-Ionising Radiation Protection (ICNIRP) public exposure guidelines.

Finally, we would be interested in any local stakeholders or groups that you consider would like to know more about our proposals and look forward to receiving your comments on the preferred option identified above. For your information pre-consultation letters and a set of plans have been sent to the local ward councillors for Didsbury West ward, the local MP Jeff Smith and the head teacher and chair of governors for West Didsbury Primary School.

We enclose a copy of our Consultation Plan and welcome your suggestions.

We look forward to receiving your response within 14 days of the date of this letter.

Yours sincerely

MRodgers
Mark Rodgers
Acquisition Surveyor
Acquisition
Clarke Telecom

CORNERSTONE CONSULTATION PLAN

Site no: MBN, MAN214	Site Contacts	
Site Name and Address: Pipe Bridge LP PAVEMENT TO NEE OF PIPE BRIDGE ON NW CORNER OF LAMPING LANE MANCHESTER, M20 6UR, NOR E: 3M393 / N: 392114	LPA	Planning Manager: Jenni Mann
Initial Rating (Stage 2A.1)		Acquisition Project Manager: Sara Rush
		Manchester City Council
Re-assessed Rating	RED - AMBER - GREEN	
	Sign and date Manager's 18/07/2022	
	Sign and date	

Stage 2A.2	LPA Comments and Opinion	Start Date 18/07/2022	Closing Date 01/08/2022	Comments
------------	--------------------------	--------------------------	----------------------------	----------

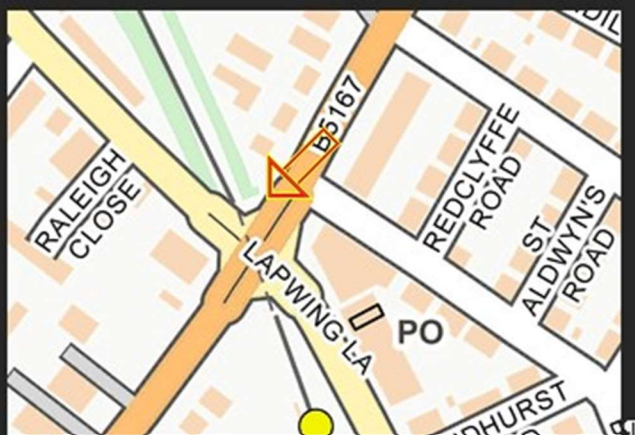
Stage 2A.1 - Identify Consultation Strategy						
Ref	Consultation Method	Agreed to be carried out Yes/No	Details (location, time, address, invite, etc.)	Start Date	Closing Date	Comments
3A.1	Letter to Ward Councillor (inc. MA in NE)	YES	Greg Stanton (Labour) Members' Services Office Manchester City Council Tom Hall Extension Manchester M20 2LA dt.greg.stanton@manchester.gov.uk John Leach (Liberal Democrat) 535 Manby Road Whalley Range Manchester M20 5HP dt.john.leach@manchester.gov.uk Debbie Hall (Labour) Members' Services Office Manchester City Council PO Box 532 Tom Hall Extension Manchester M20 2LA dt.debbie.hall@manchester.gov.uk	18-07-22	01/08/2022	Information via letter to them came 18/07/2022 (OK)
3A.2	Letter to Town Council	NO				No parish, dealisation from Mepl. 18/07/2022 (OK)
3A.3	MP	YES	Your Manchester, Warrington MP represents you in the House of Commons Julie Smith (Labour) House of Commons London SW1A 0AA julie.smith.mps@parliament.uk	18-07-22	01/08/2022	Information taken from the Parliament website 18/07/2022 (OK)
3B.1	Consultation Letter/Mail Shot	NO				
3B.2	Event/Voluntary Consultation Notice	NO				

3.B.3	Informal Drop in Session	NO				
3.B.4	Key Standard Briefing session	NO				
3.B.5	Information Lab/Bus	NO				
3.B.6	Public Notice Period in Local Press	NO				
Schools - must be completed by 18/07/22						
Schools to be considered - (includes colleges)		Agreed to be carried out Yes/No	Address (Chair of Governors and Head Teacher)	Start Date	Closing Date	Comments
West Chisbury Primary School		NO	Central Rd West Chisbury Mendips M20 4ZA office@westchisburyprimary.co.uk / HT: Mr Matt Whithead COC: Ms Felicity Bradley	18-07-22	01/08/2022	Information taken from school's separate website, google maps, and respective school website 18/07/2022 (NO)
		NO				
		NO				
Others		NO				

Location Map

PAVEMENT TO NEE OF PIPE BRIDGE ON NW CORNER OF LAPWING LANE MANCHESTER, M20-6UR

(NGR E:384383 / N:392114)



APPENDIX 3 – TELECOMS CODE OF PRACTICE GUIDANCE GOV.UK Sent under separate cover