

Supporting Documentation

Alderley Edge St Philip and St James - Telecoms

Note to parish

This bundle includes all the supporting documentation to your faculty application as required under Rule 5.5 of the Faculty Jurisdiction (Amendment) Rules 2022.

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Katy Purvis, Assistant to the DAC Secretary, on behalf of
Caroline Hilton, DAC Secretary

21 September 2022

We petition the Court for a faculty to authorise the following-

Please describe the works or other proposals for which a faculty is sought in the way recommended by the Diocesan Advisory Committee in its Notification of Advice.

SCHEDULE OF WORKS OR PROPOSALS

The installation of a new fibre optic cable connection from under the pavement in Church Lane, to the telecoms equipment housed in the tower section of St Philip & St James Church, all as described in detail in the attached Statement of Need and documentation from Messrs Open Reach (BT).

Copies of the Standard Information Form and any drawings, plans, specifications, photographs or other documents showing the proposals must be provided with this petition.

St Philip & St James Church, Alderley Edge

Fibre Optic Installation to Spire

Statement of Need – Faculty Application 2022-075702

In 1996 telecoms equipment was installed in the tower and spire of St Philip's Church (as it then was) by Orange. Over the twenty-six years since then the rental income has made a significant contribution to the Church's financial management, helping towards fabric maintenance, pastoral work and of course the Parish Share. In due course Everything Everywhere took over from Orange and were themselves taken in by British Telecom. Meanwhile various technical updates have been carried out by Orange and then EE affecting the interior control cubicles and transmission equipment but without any impact on fabric or visibility. Thus the telecoms equipment has been kept up to date with advances in technology.

At the end of July 2022 documentation was received by email from Open Reach, also a part of British Telecom. This requested the setting-up of a Wayleave covering the installation of a new cable connection (believed to include fibre optic lines) from the pavement in Church Lane outside the Church entrance, leading underground to the East side of the tower base, then externally up the tower wall for a short (visible) distance, through the wall and then up the spiral access stairway to the tower level where the telecoms equipment is housed. All this is illustrated on drawings and photographs provided by Open Reach and now submitted with this application.

We have contacted and received advice from the DAC office and have now appointed our Architect Mr Mark Pearce and a legal adviser Ms Laura Mynott of Anthony Collins, to assist us with the project, including ensuring that all costs are covered by EE(BT).

In principle we are pleased that the application for fibre optic connection has been made, in that it suggests to us that EE(BT) intend to continue their tenancy. This Faculty Approval is of great importance to us, because any refusal to accept updating the telecoms equipment would almost certainly lead to eventual termination of the tenancy and loss of crucial income.

We request approval of the Faculty Application, for the reasons given above.

**Fibre Optic Installation to Spire – Faculty Application 2022-075702
St Philip & St James, Alderley Edge**

Statement of Significance

St Philip & St James Parish Church, is a Grade II* listed building. It is located at the west end of the village of Alderley Edge, at the junction of the roads to Wilmslow and Chelford. It stands in a churchyard (no graves) of 0.76 acres surrounded by hedges. With a spire rising to 175 feet, the church is a notable landmark, visible from all parts of the village and beyond. The village War Memorial lies at the east end of the churchyard. There are two schools immediately adjacent to the Church and a third nearby.



Aerial view of the church before the demolition of the vicarage to the left of the church

Originally dedicated to St Philip, the church was built in 1850-1 as a chapel of ease to Wilmslow. This was soon after the arrival of the railway, and the development of Alderley Edge village as a dwelling-place for commuters to Manchester. The original design, by J S Crowther, consisted of a nave, chancel and north aisle. The south aisle, south porch, tower and spire, also to the designs of Crowther, were added some ten years later. A new Choir and Vicar's Vestry extension was erected to the north of the chancel in 1903-4. The Church is built of sandstone, with an unusual roof in a geometric pattern in three colours of slate. Within the Church one of the stained-glass windows is by Burne-Jones; this is an important part of our heritage, and indeed many other windows are worthy of note. Three of the altar frontals are regarded by the Textile Society as of high quality; the crimson damask frontal is thought to be a product of the Leek Embroidery society, c.1880.

Removal of Lectern Plinth – June 2018
St Philip & St James, Alderley Edge

Statement of Significance

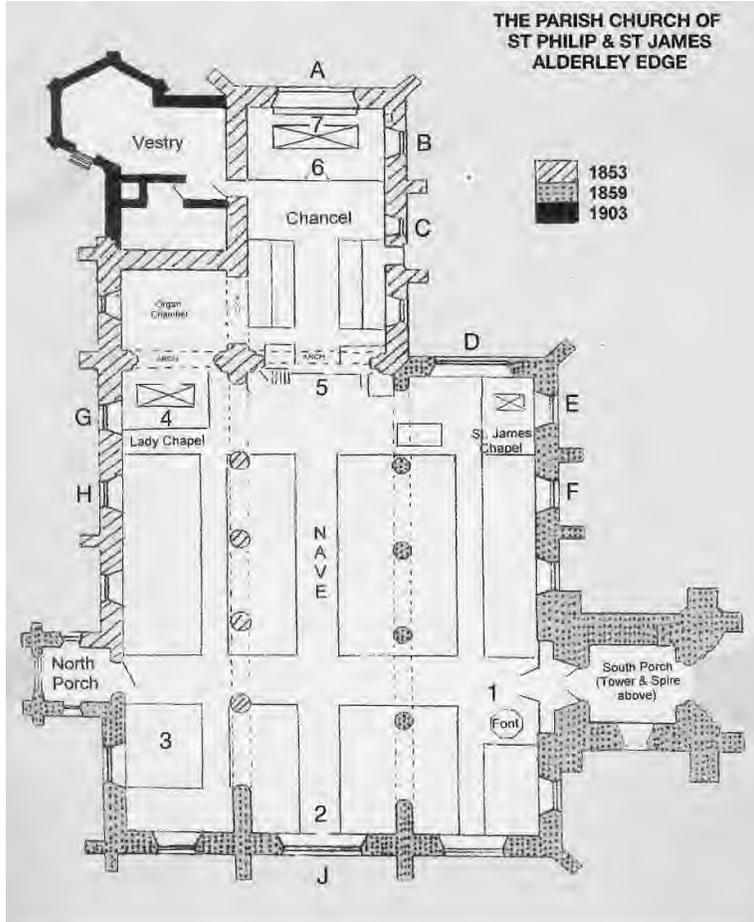


View of the original church circa 1856.



View of the church in the 1920's

St Philip & St James owes its significance to being the Parish Church of Alderley Edge. As well as the regular pattern of worship, it is the venue for community events such as the annual Civic Service and the Remembrance Day Service; schools make regular use of the Church. The architect, J S Crowther, was one of the most eminent Manchester church architects of the Victorian period, and was later responsible for the rebuilding of Manchester Cathedral. This was his first independent work and the Grade II* Listing describes it as "correct in its detailing by the co-author with Bowman, of 'Churches of the Middle Ages' (1845)".



Plan illustrating the three phases of development of the church building.

Wayleave agreement for British Telecommunications plc -

BT reference: NA190331

Notice

- This is an agreement pursuant to Schedule 3A of the Communications Act 2003, otherwise known as the Electronic Communications Code ('the Code'). For more information about the Code, see http://www.legislation.gov.uk/ukpga/2017/30/pdfs/ukpga_20170030_en.pdf
- By signing this agreement, you allow us to place apparatus on your property and keep it there.
- We recommend you keep this agreement with your title deeds.

This agreement is between you,

Mr M SINKER

(your name)

of

(your address or registered or main office)

ST PHILIPS CHURCH
ALDERLEY EDGE
SK97UZ

and us, **British Telecommunications plc** whose registered office is One Braham, 1 Braham Street, London, E1 8EE. (Registered in England No 1800000)

The term 'us' includes anyone who takes over our business, and our contractors. The term 'you' also refers to any others who are bound by this agreement under the terms of the code.

Property the agreement relates to

As Above

('your property')

Description of our apparatus

Approximately 10 metres of underground cable and duct, 70 metres of cable and all associated cables, wires and attachments

('our apparatus') If there is a plan attached to this agreement, it shows the approximate position of our apparatus.

NA190331

Your signature:

Please print name

Our signature:



Please print name

Sean Round

For office use only

Date of agreement

1 Our rights

We have the following rights ('our rights').

We may:

- install our apparatus on, under, or over your property;
- inspect our apparatus;
- repair or substitute our apparatus;
- remove our apparatus;
- upgrade our apparatus;
- share our apparatus;
- add further cables in existing duct.

We may come on to your property to do any of these things without giving you notice. However, we will try to contact you beforehand if possible. If we need to bring vehicles or heavy machinery onto your property, we will ask you first unless it is an emergency.

2 Our responsibilities and our limits on our liability

We will take reasonable care not to cause damage to your property, including:

- taking all reasonable precautions to avoid obstructions or interference with the use of the Property or any adjoining property;
- maintaining and keeping the Permitted Apparatus in good repair and condition and so as not to be a danger to you, your employees or property, or the tenants or occupiers of the Property;
- carrying out and completing our works and use and operate the Permitted Apparatus in accordance in all respects with all relevant legislation;
- maintaining insurance with a reputable insurance company against public liability and other third party liability in connection with any injury, death, loss or damage to any persons or property belonging to any third party arising out of the exercise by us, our employees, agents or any person under our control of the rights hereby granted, and will provide details of such insurance to you upon reasonable request;

We will use the reasonable skill and care of a competent communications provider in doing any of these things including the location of the apparatus.

If our negligence causes death or personal injury, we accept responsibility and there is no limit to our liability. We also accept responsibility for our fraud, fraudulent statements or any other liability that the law does not allow us to exclude or limit.

In relation to property damage, if we do damage your property, we will accept responsibility for damage to your property and at our option we will either (a) pay you up to £1,000,000.00 in total for all events occurring in a calendar year; or (b), or repair it to your reasonable satisfaction.

We will indemnify (compensate) you up to £5,000,000.00 if someone makes a claim against you because of us installing or keeping our apparatus on your property as long as:

- you did not cause or contribute to the claim;
- you let us know straight away when you hear about a possible claim;
- you use reasonable endeavours to mitigate any losses, damages or liability;
- you let us take control over any claim if and when we ask; and
- you get our permission in writing before you make any payments or admit liability.

Apart from what we have mentioned above (for anything else) we won't pay you more than £500,000.00 in compensation in a calendar year.

Please note that apart from liability for death or personal injury and fraud, fraudulent statements or other liability that cannot be excluded under law, we're not responsible for and will not indemnify you for any (direct or indirect) loss of profit, revenue, business, goodwill, anticipated savings, wasted expenditure, wasted time, opportunity, contracts or data, nor are we responsible for any special, indirect or consequential loss.

3 Your responsibilities

You must not damage our apparatus or allow anyone else you are responsible for to damage our apparatus.

You must not place or build anything on your property which would make it more

difficult for us to get to our apparatus. You must not plant a tree or shrub if the roots are likely to interfere with our apparatus, unless you have to do this because of planning law.

4 Notices

The procedure for sending any notices under this agreement and/or the Code is set out in the Code. For all notices relating to this agreement, the 'proper address' of the Company for service shall be the Company's registered address at Companies House as updated from time to time and any such notice shall be marked 'For the attention of Openreach Wayleaves Team'.

5 Who apparatus belongs to

Our apparatus belongs to us at all times.

6 Use of personal data for placement of apparatus

We collect and process the personal data set out in this wayleave for the purposes set out in clause 1 of this Agreement. The lawful basis for the collection and processing of the personal data is to meet our legitimate interests. For information on our obligations and your rights please see our privacy policy available at:

<https://www.openreach.com/privacy-policy/>

7 Termination

7.1 Subject to the following clauses, this agreement will terminate automatically without notice in the event that we:

7.1.1 remove the Permitted Apparatus; or
7.1.2 cease to be a person to whom the Code is applied.

7.2 We may terminate this agreement by giving you three months' notice.

7.3 Subject always to clause 7.5 you can only terminate this agreement by giving us 18 months' written notice and only if,

a. you intend to redevelop the Property or land neighbouring and cannot reasonably do so unless this agreement comes to an end or

b. the prejudice caused to you by the agreement can no longer be compensated for by money and the public benefit likely to result from this agreement continuing no longer outweighs the prejudice to you

7.4 if we are in substantial breach of the agreement and

a. the breach is incapable of remedy or

b. we have failed to remedy the breach within 30 days after you have notified us of the breach;

7.5 your right to terminate this agreement is subject to paragraph 31 of the Electronic Communications Code.

7.6 you shall have the right to require removal of the Permitted Apparatus subject to Part 6 of the Code.

Notes (These notes do not form part of the agreement.)

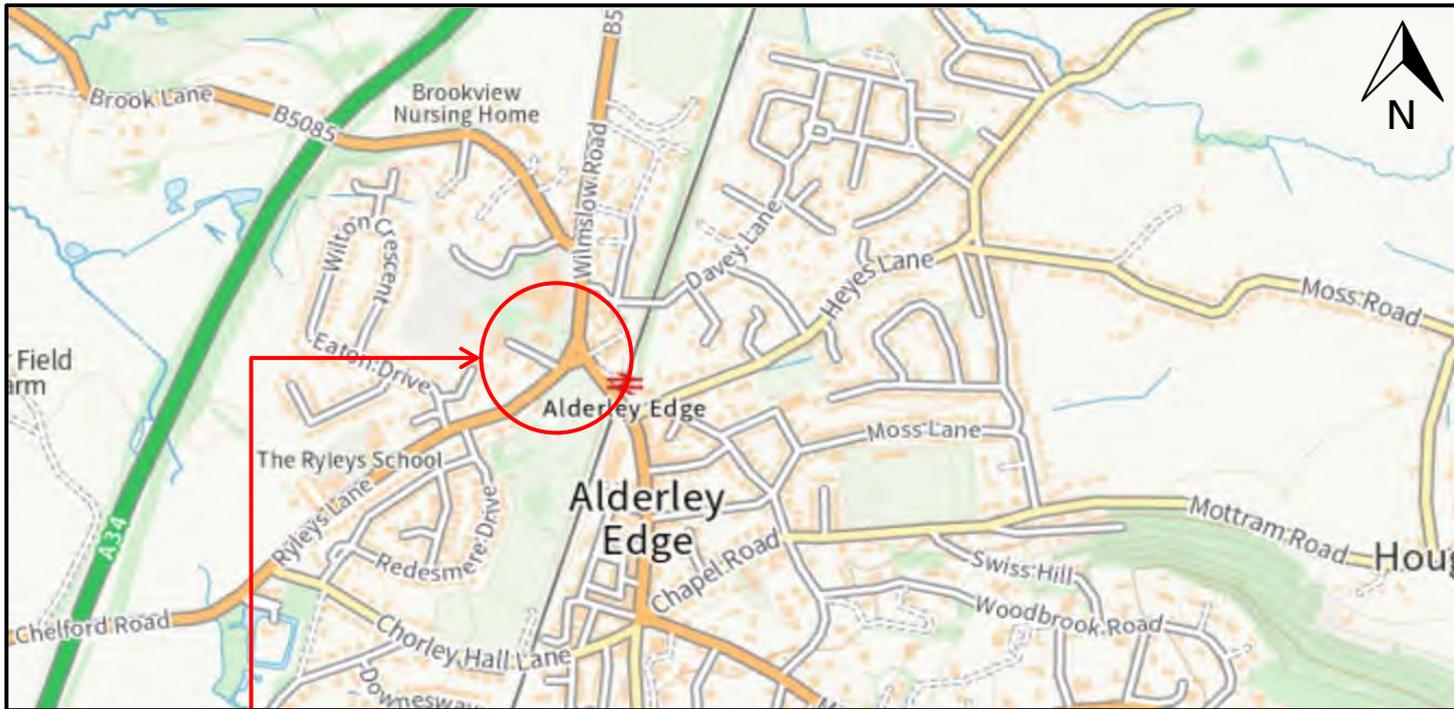
The Electronic Communications Code is set out in Schedule 3A to the Communications Act 2003. The Code sets out our rights and responsibilities when we put apparatus on private property.

Paragraph 11 of the Code says we must get the occupier's written permission to place apparatus on private land.

Paragraph 82 of the Code gives us the right to lop overhanging trees on the roadside that interfere with our apparatus.

Wayleave agreement for British Telecommunications plc

Part 15 of the Code sets out the procedures for notices.



SITE LOCATION
(SCALE 1:25,000)

SITE LOCATION
(SCALE 1:5,000)



openreach

Exchange Area:
ALDERLEY EDGE

WL/SA No:
NA190331

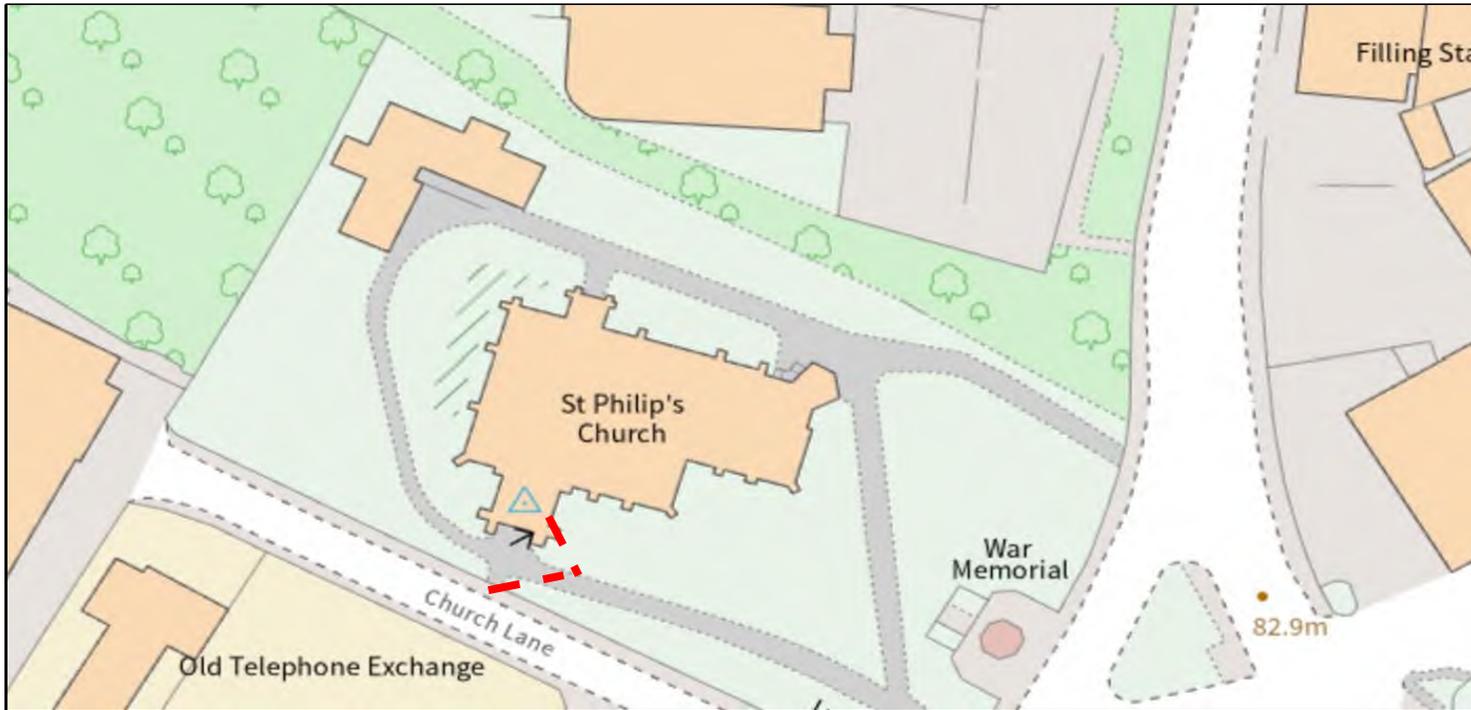
Map Reference:
384185 378627

Planning Reference:
BTWD213648

Date:
19/07/2022

Site Address:
ST PHILIPS CHURCH
CHURCH LANE ALDERLEY
EDGE SK97UZ

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Sections showing normal depth (not to scale)

DEPTH mm	Duct				Buried Cable
	CARRIAGEWAY (C/W) 900 " " " 600 FOOTWAY (F/W) 600 " " " 450 " " " 350 APPROXIMATE SIZES (FOR DUCT :- ACROSS BARREL)				

Notes :- 1. The actual course and depth of the proposed underground telecommunication apparatus is subject to deviation arising from unforeseen obstructions.
2. This plan is not in respect of a service line.

Openreach Legend

	Route of Apparatus	Cabinet	Pole	Stay	Manhole	Joint Box	Small Fibre Joint	Fibre Box
Proposed								
Existing								

Scale:

1:500

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Information we want you to know

Introduction

We aim to enable everyone access to a choice of high-quality electronic communications services. This is also a key principle of the Code and can be found in Para 21(4).

An unreasonable delay in securing an agreement can result in the prevention of this access. That is why Parliament has given Operators the power to apply to the Lands Tribunal (Sheriff Court in Scotland) for an Order conferring the rights we need. This is a step we have taken in the past where we have faced unreasonable delays in the progress of a case. This document seeks to provide any further information you may need to avoid any of these delays.

The agreement we are seeking is officially a Code Right. This is not a lease, nor an easement. It does not convey a legal interest in any property/land and is not a disposition of the land. There is no requirement to register it with Land Registry or execute it as a Deed. A "Wayleave" is the name given to these agreements.

Due to the nature of the agreements and our installations, a reasonable timeframe for the completion of these matters is in the region of 60 days, as long as all parties play their part in facilitating progress.

Process

In addition to this document, you will have received a series of further documents from us which includes:

- An introductory letter
- The wayleave agreement; and
- A route plan

These documents collectively provide you with all the information you should require in relation to what we wish to install, and why.

What do we need to know from you?

- That you are the correct person to grant us permission
- That you are happy with our proposed route
- That you are happy with the contents of the proposed wayleave agreement

What to do if you have queries with any of the above?

- If you are not the correct person to grant us permission, please let us know immediately so we can contact the correct person. If you can assist us with who the correct party is, please let us know.
- If you have queries regarding the planned route, please let us know the specific issue and we can work with our planning teams to try and reconcile this. The earlier you let us know, the quicker we can resolve any queries.
- If you are not happy with the contents of the proposed agreement, please let us know the specific

Information we want you to know

queries you may have, ideally with a marked-up version of the agreement. We can then review this to come to a suitable resolution for all.

We have drafted the agreement to provide extra rights for landowners that go above and beyond the requirements in the Code to provide as fair and balanced a position as possible. However, if you feel you need to take professional advice on the contents, please instruct an agent at the earliest possible opportunity. This will enable swift progress to be made on the matter.

Our wayleave documentation is suitable for all varieties of installation, however there are two types of wayleave requests which is based on the purpose of the installation.

1st Party Request – Where the apparatus being installed is to provide service to a party legally related to you, often your tenant

3rd Party Request – Where the apparatus is to provide a service to someone legally unrelated to you

Payments

The main question we usually get asked is whether you should be offered a payment for our works. This normally comes from two different places:

1. A payment for the right to put apparatus on your land – we call this Consideration
2. A payment to cover any professional fees you may incur

Consideration

Whether a Consideration payment is offered for a wayleave is dependent on the purpose of the installation. This follows the aforementioned distinction between 1st and 3rd party requests.

If we are requesting a 1st Party agreement (to provide service to someone legally related to you) then we would not offer a consideration payment with the agreement. This is because the value of the installation to you is provided by the service being offered to the property in question.

If we are requesting a 3rd Party agreement, then we appreciate the value of the right needs to be considered. For this, we will offer you a payment that is proportionate to the type and amount of apparatus we are proposing to install. This figure is based on standard rates we have consulted on and agreed with the major landowning representative bodies. These payments offered are deemed to be a fair market value of the right - this is the requirement under the Code.

Professional Fees

Much like a consideration payment, the payment towards professional fees depends on the category of request.

For a 1st Party request, we would not offer a contribution towards any professional fees you incur. This is

Information we want you to know

because we are contacting you at the ultimate request of an occupier of the land or building you own. In this scenario the landowner would need to seek any costs they require elsewhere, usually from their tenant directly. This is why it is very important any Agent/Solicitor is instructed as soon as possible, and the request for their fees is met at the earliest opportunity.

For a 3rd Party request, we would offer to contribute towards a fair amount of any fees incurred. We cannot agree to cover any fees you incur completely, as who you choose to take advice from is out of our hands, and therefore so are their terms of business. However, we find the reasonable contribution we are prepared to make does adequately cover the costs incurred by landowners in the vast majority of cases. Again, it is incredibly important that if you are to instruct anyone, this happens as early as possible, so this does not hold up the progress of the matter.

All agreed payments will be made upon completion of the wayleave.

Completion

Once all the above has been agreed, we want to try and complete the agreement as quickly, easily and simply as possible for everyone concerned.

We are happy to receive a scanned copy of the document signed by yourself, also using a digital signature if possible.

There is no requirement for a wayleave to have a wet ink signature, nor for a hard copy to be posted to all parties. Digital signing of agreements is accepted and is our preferred method of completing agreements.

After completion, you will be contacted by Openreach to schedule an appropriate date and time for the works to be carried out.

Alderley Edge St Philip and St James - Telecoms

Attachments are listed according to the numbering on the supporting documents list

- Attachments in blue are included within the proposals section
- Attachments in black italics are superseded and not included within the application

Date	Message
<p data-bbox="256 478 399 510">29/07/2022</p> <p data-bbox="256 548 477 709">To: Martin Sinker From: Sean Round (Openreach Wayleaves Senior Manager)</p>	<p data-bbox="513 478 1300 541">We are writing to you because we need your permission to provide new telecommunication apparatus on your property at:</p> <p data-bbox="513 579 626 611">As Above</p> <p data-bbox="513 648 1344 779">We need to install this apparatus to provide telecommunication services to connect your tenant. We will be unable to deliver services to your tenant without your permission. In order to connect your tenant, we need to install:</p> <p data-bbox="513 816 1344 884">Approximately 10 metres of underground cable and duct, 70 metres of cable and all associated cables, wires and attachments</p> <p data-bbox="513 921 1351 1052">We will do our best to site the apparatus in a position that you're happy with. We'll cause as little inconvenience as we can, reinstate your property to its original state, and make sure we do this to your reasonable satisfaction.</p> <p data-bbox="513 1089 1344 1287">If, in the future, you decide to redevelop your land, meaning that our apparatus would need to be moved or altered, you will be able to give us notice to move in writing under the agreement. We would be happy to comply with any such request as long as there's a suitable alternative position for the apparatus on your land. If there is no suitable alternative, you have the right to terminate the agreement.</p> <p data-bbox="513 1325 1344 1598">I enclose the agreement (a 'wayleave') for your signature. I'd be grateful if you could sign the agreement and print your name in the space provided for the grantor on page one (<i>for applications in Scotland please also complete the witness details</i>). Please don't date the agreement. Please then send back one copy of the agreement to me as soon as possible in the envelope provided or scan the signed copy and email it to my email address that can be found at the bottom of this letter. Please keep a copy for your records.</p> <p data-bbox="513 1635 1300 1698">We need your agreement as soon as possible, because we can't provide service to your tenant without it.</p> <p data-bbox="513 1736 1336 1896"><i>As this installation is to provide services to your tenant, we cannot cover any professional fees you may incur, for example, surveyors' fees to assess the route of the equipment. The normal practice is to get an undertaking from your tenant for them to pay any fees you incur. If you can agree this with your tenant early, it will avoid further delays in the process and we'll</i></p>

	<p><i>be able to get your tenant connected more quickly. Unfortunately, as we are a regulated business and have no direct relationship to your tenant, we cannot facilitate the payment through ourselves. However, we will endeavour to make the process as smooth as possible for all involved. We may share your details or your representative's details with the relevant Communication Providers to assist with this wayleave application.</i></p> <p>We need this agreement because of our obligation under Paragraph 11 of the Electronic Communications Code (Schedule 3A of the Communications Act 2003 as amended by the Digital Economy Act 2017). This says that we need your written consent to carry out the work on your land. If you'd like more detail, you can find it here:</p> <p>https://www.legislation.gov.uk/ukpga/2003/21/schedule/3A</p> <p>If you want to speak to me about this wayleave application, you can contact me on my details below.</p>
<p>29/07/2022</p> <p>To: Martin Sinker From: Arham Faheem Faheem (Openreach solicitor)</p> <p>With attachments</p>	<p>Wayleave Agreement documents for Consent No: NA190331</p> <p>My name is Arham Faheem and I work on behalf of the Openreach Wayleaves team. I am writing in regards to the proposed installation to install:</p> <p>Approximately 10 metres of underground cable and duct, 70 metres of cable and all associated cables, wires and attachments (as per plan) At ST PHILIPS CHURCH ALDERLEY EDGE SK97UZ</p> <p>Attached are a series of documents containing the wayleave document required to grant permission for the above works as well as some extra information. The breakdown of the documents is as follows:</p> <ul style="list-style-type: none"> * A1000 - this document is the wayleave itself. It covers the rights and obligations of both parties in granting the permission for the above installation of telecommunications equipment. The documents reflect a balance of protections and obligation protecting both the land owner and operator under the Telecommunications Code. * Plan - This document shows the proposed route for this installation. * SL9 - This document provides some further guidance notes and answers some Frequently Asked Questions. Hopefully this document will fill in any gaps from the other documents. <p>Hopefully the attached documents will provide the explanation and context required to allow the return of the signed agreement as soon as possible.</p> <p>However, if you have any further questions please do not hesitate to get in contact via this email address or the contact details below.</p> <p>If you could please confirm receipt of this email by return at your earliest convenience it would be greatly appreciated.</p> <p><i>Cover letter as above</i></p>

	<p>A1000 Wayleave agreement Plan SL9 Guidance notes and FAQs</p>
<p>04/08/2022</p> <p>To: Katy Purvis From: Martin Sinker</p> <p>With attachments</p>	<p>Please may we ask for your advice about the email below, and attachments. As you may know we have telecoms equipment in our spire, installed by Orange in around 1996, then taken over by EE who are now, I believe, owned by BT. The rent paid by EE is an important part of our income. Open Reach are actively installing fibre-optic equipment in the Alderley Edge area and now wish to link the spire installation to fibre-optic - this is in principle a good sign in that the telecoms equipment in the spire is likely to continue in use. The proposed installation is underground and then within the spire access spiral stairway except I think, for an external entry to the masonry at ground level. I have been identified as their contact point - I'm now ex-churchwarden having done my six years, but am still chairman of the Fabric Committee. Our questions are as follows:</p> <ol style="list-style-type: none"> 1. Do we need a Faculty or approval of any sort from the Diocese, given that there will be virtually no sign of this installation, once complete? 2. Am I the right person to be named on the agreement, and, in due course, to be signing it? 3. Do we need legal advice on any aspects of the proposal? <p>The documentation states that we are responsible for recovering any legal costs from our tenants, but as both Open Reach and EE are part of BT my reaction is to dig my heels in and tell them to talk to themselves, if we see legal or other costs arising.</p> <p>I will be suggesting that Open Reach talk to the appropriate authorities about excavation of the pavement outside our gateway as this is not a part of the Church property.</p> <p>For information I am copying Revd Robin Pye, Churchwardens Wendy and Bob and also our Architect Mark Pearce.</p>
<p>04/08/2022</p> <p>To: Martin Sinker From: Katy Purvis</p>	<p>Thanks for sending this information.</p> <ol style="list-style-type: none"> 1) Yes, you will need faculty, as the works involve fixing cabling inside the church and underground through the churchyard, and require a wayleave agreement. I imagine the DAC will be supportive of the proposals, but there may be a need for archaeological supervision as well as Mark's supervision for the internal cable routes and for the external entry point through the wall. You will probably need to explain the faculty process and the likely costs, including the £312 faculty fee, to Openreach/EE/BT as soon as possible. I don't think the faculty will be particularly complicated, but you would need to submit details to the 9th September DAC meeting, as the 26 August Standing Committee can't recommend applications for Grade 1 or 2* church buildings. They might not understand the timescales involved, so don't forget to tell them about the 30 day notice period. I think granting of a faculty would probably be end of October at the earliest, but I can't guarantee that. 2) I am not sure if you are the right person to sign the agreement, I suspect Robin should sign as the incumbent, as the church is vested in him (which is sort of ownership). 3) Yes, you do need ecclesiastical legal advice, and they will be able to

