

Our ref: 238879

Date: 19th April 2022

F.A.O The Chief Planning Officer/ Head of Planning
Manchester City Council,
PO Box 532,
Manchester,
M60 2LA

Dear Sir or Madam,

Permitted Development - Prior Approval Application

Proposed upgrades to existing installation located at East Didsbury Kingsway, Willow Court, 962 Kingsway, East Didsbury, Manchester, Greater Manchester, M20 5WR

The proposal is to remove three antennas at 22.4m on the stub tower and install three antennas at an increased height of 33.2m on the rooftop stub tower, together with 1 GPS antenna, 3 ERS, 6 Bobs and ancillary equipment.

On behalf of On Tower UK Ltd in conjunction with Mobile Broadband Network Limited (MBNL), we submit herewith an application for a prior approval determination for the upgrade to existing telecommunications installation at the above location to enable Fourth Generation (4G) and Fifth Generations (5G) mobile communications. This application follows the completion of our pre-application engagement exercise, reflecting so far as is practicable the guidance and comments offered.

You may be aware that The Court of Appeal recently upheld a High Court decision - Mawbey, R (On the Application Of) & Orsv Cornerstone Telecommunications Infrastructure Ltd. [2019] EWCA Civ 1016 (17 June 2019) - which confirms the meaning of "mast" for the purposes of rooftop permitted development within Part 16.

The consequence of this, is that the installation of antennas onto a building that necessitates a vertical 'main' support pole physically attached to the rooftop to support antennas, then the pole itself must be treated as a mast for the purposes of Part 16. This will mean that new antennas requiring new or replacement main support poles, taken as a mast, will normally trigger a need for planning permission or prior approval of the LPA in most cases. This judgement is relevant to the proposed development within this application.

The application is submitted in accordance with the requirements of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, and seeks a determination as to whether the Authority's approval will be required for the siting and appearance of the development.

The application comprises:

- i. The written description of the development: the proposal is an upgrade to existing rooftop telecommunications installation, proposed to remove three antennas at 22.4m on the stub tower and install three antennas at an increased height of 33.2m on the rooftop stub tower, together with 1 GPS antenna, 3 ERS, 6 Bobs and ancillary equipment.
- ii. An O.S. site plan scale 1:1250 planning drawing reference - 302774-00-004-ML001 showing the location where the apparatus will be installed.
- iii. Appropriate planning fee.
- iv. The Developer's Notice served on the landowner.
- v. The Developer's contact details.

The following information is also provided to assist with your determination of the application:

- vi. The Authority's application form for telecommunications development prior approval applications
- vii. Drawing reference numbers –
302774-00-000-MD002
302774-00-001-MD002
302774-00-002-MD002
302774-00-003-MD002
302774-02-101-MD002
302774-02-151-MD002
302774-02-152-MD002
- viii. A supporting Planning Statement that includes a summary of the siting, layout and design of the development
- ix. National Policy - Delivering Ultra Fast Broadband Mobile Connectivity
- x. 5G Helping tackle climate change document
- xi. 5G Technical Support document
- xii. An ICNIRP Certificate
- xiii. 5G Health and Safety document

Developer's Contact Details

All correspondence and queries relating the determination of this application should be submitted to the undersigned.

However, in accordance with the requirements of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, any correspondence to the developers should be sent to:

For Cellnex:

Email: planning@cellnextelecom.co.uk

Choose as applicable:

MBNL, Sixth Floor, Thames Tower, Station Road, Reading, RG1 1LX

MBNL: will.osborne@mbnl.co.uk

EE: public.affairs@ee.co.uk

Three: jane.evans@three.co.uk

This letter and the enclosures also provide due notification, as may be required, under the relevant conditions of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003, as amended. In particular, you are given notice of the intention to install the electronic communications apparatus described in more detail in the application documentation (including the scale drawings) and to be located as shown on the application plans.

We indicated in our prior engagement letter that the Traffic Light Rating was green. The prior engagement carried out suggests this rating to be correct and we have not altered it.

The Scope of the Prior Approval Determination

The permitted development rights granted by Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO), exist to facilitate the establishment of modern communications apparatus and infrastructure such as for 5G, judged by successive governments to be important to a modern economy and in attaining sustainability objectives.

The permitted development granted subject to the prior approval procedure is similar to the grant of outline planning permission, with details of precise siting and appearance being reserved. This is explained at paragraph 8.4 of the Code of Best Practice on Mobile Network Development in England, November 2016. The National Planning Policy Framework is also accordingly clear that permitted development rights should not generally be withdrawn.

As a consequence, the scope of determination does not extend to whether the site selected is needed, as the development is acceptable in principle due to the rights conveyed by the GPDO. Likewise, whilst information on alternative sites may be supplied by way of background and context, the extent of control on siting is limited to the precise siting on a site and not the general location.

As the principle of development at the application site is permitted by the GPDO, the submitted Planning Statement focuses on the statutory criteria of detailed siting and appearance. In so doing, this is considered against current town and country planning guidance, including the development plan which are material considerations, and with reference to the operational requirements of the operator and the attempts to accommodate the particular requirement.

Appendix E of the Code of Best Practice clearly requires the provision of full supporting information and we trust all the supporting material submitted in fulfilment of this is of assistance. However, if you do require any clarification or further information, please let us know immediately.

Whilst as a matter of best practice extensive supporting material is submitted, the lawful scope of determination remains confined to the detailed siting and appearance of the apparatus proposed.

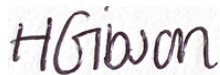
The permitted development rights exist to facilitate the establishment of modern communications, judged by successive governments to be important to a modern economy and in attaining sustainability objectives.

We would be willing to meet with you or assist with any visits to the site and the surrounding area, if this is beneficial to the determination of the application.

Finally, your attention is drawn to the statutory 56 days period for the determination of this application of this nature upon which detailed advice is given at paragraph 8.2 onwards of the Code of Best Practice on Mobile Network Development in England.

We trust everything is in order, but if you do require any further information or clarification, please do not hesitate to contact Hannah Gibson.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'H Gibson', is positioned above the printed name.

Hannah Gibson BSc (Hons)
On behalf of Cellnex

T. 07494 751391

E. h.gibson@dotsurveying.co.uk or planning@dotsurveying.co.uk