

Our ref: 238736

Date: 14th December 2021

Chief Planning Officer
Manchester City Council
PO Box 532
Manchester
M60 2LA

Email: planning@manchester.gov.uk

Dear Sir/Madam,

I write to you on behalf of Mobile Broadband Network Ltd (MBNL) in relation to the Submission of an Application for Prior Approval Determination for:

REMOVAL OF 1NO. BTS CABINET, 1NO. IMB CABINET AND 1NO. GPS MODULE AND THE INSTALLATION OF 3NO. AIR ANTENNAS, 1NO. UHF GPS MODULE AND 1NO. AIRI CABINET WITH 5NO. EXISTING ANTENNAS BEING RAISED AND ALL OTHER ANCIALLY APPARATUS AT EXISTING TELECOMMUNICATIONS ROOFTOP INSTALLATION AT MANCHESTER DEVONSHIRE STREET NORTH, APEX HOUSE, 2 DEVONSHIRE STREET NORTH, MANCHESTER, GREATER MANCHESTER, M12 6JQ (E: 385796 N: 397015).

On behalf of Mobile Broadband Network Ltd (MBNL), we submit herewith an application for a prior approval determination for the upgrade of existing electronic communications apparatus at the above site. The 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.

We enclose the following:

- Planning Supporting Statement
- Pre-Application Letter dated 22nd November 2021
- ICNIRP Certificate
- Developers Notice
- Location Plan (87249_00_004_ML002_1of1)
- Planning Drawings – Existing & Proposed (87249_MD)
- Background Information Telecoms Development
- Cellnex - 5G - Helping to tackle climate change
- Cellnex – 5G – Health and Safety
- Cellnex – 5G – Technical Support
- Cellnex – National Policy – Delivering Ultra-Fast Broadband Mobile Connectivity
- DCMS MHCLG Collaborating for Digital Connectivity Letter
- Health and Mobile Phone Base Stations

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

Please also take this application and the details contained within it as 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 consultation strategy that the Traffic Light Rating was green. There was no correspondence received from the LPA regarding the Traffic Light Rating submitted thus, the prior engagement carried out suggests this rating to be correct and we have not altered it.

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 please contact me if you require any additional information or clarification in relation to the proposed development.

Yours faithfully,

Tiernan Walsh
Planning & Feasibility Co-ordinator
WHP Telecoms Ltd
Phone: +44 (0)7873366745
Email: t.walsh@whptelecoms.com
Website: www.whptelecoms.com