



## The Planning Inspectorate

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Mrs Tessa Newman  
18 Elm Place  
Bloomfield Road  
Bath  
BA2 2AB

Your Ref:

Our Ref: APP/F0114/A/G4/1140730

Date: 22 October 2004

Dear Mrs Newman and other residents

APPEAL AT HIGHWAY LAND, WELLISWAY/BLOOMFIELD ROAD, BATH

Further to my letter of 13 October, I have completed my investigations and can reply fully to your concerns. Please accept our apologies for the delay in writing out I needed to seek comments from the Inspector, and also from colleagues here.

Having considered very carefully all the evidence, I accept that the reasoning in the Inspector's decision was inadequate in that it failed to deal properly with local residents' health fears. I can only offer our sincere apologies for the error. As I indicated in my letter of 13 October the decision of 13 July 2004 stands, as issued. While we now recognise that there is a flaw in the decision, we have no legislative powers to reconsider it; this could only have been done following a successful challenge in the High Court.

I fully appreciate that you and other residents are very upset by what has happened, but it does not necessarily follow that, had the Inspector addressed this particular point as she should have done, her decision would have been different. Indeed, I note that local people did not submit any substantial evidence to support their case and it was undisputed that the emissions from the proposed mast would be within international safety guidelines. You may appreciate that in cases where Inspectors have to weigh public health fears in the context of a proposal that meets well established safety limits, it is likely to be difficult for health fears to carry sufficient weight to be a ground for refusal when there is no substantial evidence to support them.

We do take complaints against any aspect of our work very seriously, and whilst we strive to ensure that decisions are as error free as possible, there will inevitably be occasions when mistakes do occur. Critical and positive feedback is considered very valuable and acted upon, as necessary. However, I am sorry that you have had cause to write to us in this way.

Yours sincerely

  
LUCY DEANE  
Quality Assurance Unit





# Appeal Decision

Site visit made on 28 June 2004

by **Wendy J Burden BA DipTP MRTPI**

an Inspector appointed by the First Secretary of State

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Date  
**13 JUL 2004**

Appeal Ref: APP/E0114/A/04/1140730

Highway Land at Wellsway/Bloomfield Road, Bath BA2 4RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is made by 02 (UK) Limited against the decision of Bath A. North East Somerset Council
- The application ref 03/01849/1 U.L. dated 18 July 2003, was refused on the 17 December 2003
- The development proposed is a telecommunications installation comprising of a 12.5m high slimline monopole with 3 no antennae within shield and associated equipment cabin.

**Summary of Decision: The appeal is allowed subject to conditions.**

## Main Issue

1. The site is within the Bath Conservation Area and World Heritage Site in which Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing its character or appearance. I therefore consider the main issue in this case to be the effect of the proposal on the character and appearance of the area.

## Planning Policy

2. In the adopted Bath Local Plan Policy C52 states that permission will not be granted for telecommunications development unless certain criteria are met. These include a proven need for the development; no reasonable prospect of erecting antennae on existing buildings or other structures, and siting and design so as to minimise impact on its surroundings. In addition, Policies C1, C2, C3 and C4 seek to protect and enhance the Conservation Area and World Heritage Site, and Policy H15 resists development which would significantly reduce the amenity of residential accommodation. These policies are generally carried forward in the Revised Deposit Draft Local Plan which is at an early stage in its preparation and does not therefore carry much weight.
3. National Planning Policy Guidance Note 8, Telecommunications (PPG8) is of particular relevance to the proposal since it sets out Government policy to facilitate the growth of new and existing telecommunications systems whilst keeping the environmental impact to a minimum.

## Reasons

4. The monopole is required to provide an increase in capacity in the coverage of the area. Most of the area benefits from some coverage, but with increased use of the service the limited capacity in some parts of the area has resulted in calls being cut off or the signal being not available. In these circumstances I accept there is a need for the installation. The

effective siting of the new installation is constrained by technical requirements and the topography of Bath, and the appellants set out the extent of the search which they carried out to find alternative locations. Although the Council argues that insufficient evidence of alternative locations has been submitted, the appellants consulted with the Council prior to the submission of the application and state that there are no masts in the vicinity capable of being shared, and no suitable existing buildings identified for use. I have no evidence that there are any suitable alternatives, and in view of the character of buildings in the locality which are generally domestic in scale, I accept the appellants submission that no suitable alternative location is available

- i The proposed monopole would be located on the east edge of a triangular area of grass and other planting between Bloomfield Road and Wellsway, at the back of the pavement on Wellsway. This area is well maintained with some existing street furniture together with some young trees. Although the proposed monopole would be just over one metre taller than nearby lampposts, it is designed to match the existing street lighting columns, and the antennae would be hidden in a shroud around the top of the pole. Located as proposed adjacent to the existing trees I do not consider that the pole would be visually prominent in the street scene. The equipment cabin would be located next to the monopole and would be similar in size and design to other cabinets used by BT or electricity suppliers so would not in my view be unduly intrusive in this location
- ii There are residential properties facing the appeal site in Wellsway and Bloomfield Road. These are attractive buildings of classical appearance, but they are separated from the site by busy roads and therefore I consider that the setting of the houses would not be unduly affected by the proposal. Residents are concerned about the effect on the outlook from their properties. However, in view of its design and located as it would be together with trees and other items of street furniture, I consider that the monopole would not have a harmful effect on the outlook from adjacent dwellings
- iii Concerns have also been raised about the health issues arising from telecommunications development, but the appellants have certified that the apparatus would be in full compliance with the guidance of the International Commission on Non-Ionising Radiation Protection. In these circumstances PPG8 states that further consideration of health risk should not be necessary

I have considered the other appeal decision submitted by the Council, but each case fails to be decided on its own merits. In the particular circumstances of this case I find that there would be no significant harm and as a result the character and appearance of the Conservation Area and World Heritage Site would be preserved, and the proposal would accord with the policies of the development plan.

#### conditions

I have considered the conditions suggested by the Council in the light of advice set out in Circular 11/95 and find them necessary and appropriate for the reasons set out by the Council

#### conclusion

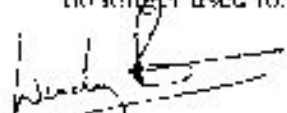
- 0 I have had regard to all the matters raised in the representations but they do not alter or outweigh the considerations which lead to my conclusion that there would be no significant

harm and as a result the character and appearance of the Conservation Area and World Heritage Site would be preserved, and the proposal would accord with the policies of the development plan.

**Decision**

I hereby allow the appeal and grant planning permission for a telecommunications installation comprising of a 12.5m high slimline monopole with 3 no antennae within ground and associated equipment cabin in accordance with the planning application ref 01/01849/1-01, dated 18 July 2003, and the accompanying plans submitted therewith, subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of five years from the date of this decision.
- 2) The apparatus and equipment hereby permitted shall not be brought into use until the external surface of the monopole has been painted black, and thereafter maintained in this colour, unless agreed otherwise in writing by the Local Planning Authority.
- 3) The apparatus and equipment hereby permitted shall be removed from the site if it is no longer used for operational purposes.

  
INSPECTOR