

**ROYAL BOROUGH
OF
KENSINGTON & CHELSEA**

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DECISION NOTICE



PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

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19 APR 2002

My Ref: PP/02/00439/MNW
Your Ref: AW/32404

Please ask for: South East Area Team

Dear Sir/Madam,

TOWN AND COUNTRY PLANNING ACT, 1990

TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER, 1988

REFUSAL OF PERMISSION TO DEVELOP (DP2)

The Borough Council in pursuance of its powers under the above-mentioned Act and Order, hereby REFUSE to permit the development referred to in the under-mentioned Schedule as shown in the plans submitted. Your attention is drawn to the enclosed Information Sheet.

SCHEDULE

<u>DEVELOPMENT:</u>	Erection of a telecommunication base station consisting of 6 no. tripod-mounted antennae, 2 tripods, 3 Nokia Ultrasite outdoor cabinets, 2 Nortel BTs outdoor cabinets and one external Diplexer cabinet, along with associated feeders and ancillary development.
<u>SITE ADDRESS:</u>	9 Wilbraham Place, Chelsea, SW1X9AE
<u>RBK&C Drawing Nos:</u>	PP/02/00439
<u>Applicant's Drawing Nos:</u>	32404-001, 32404-002A, 32404-003A, 32404-004A and 32404-005A
<u>Application Dated:</u>	21/02/2002
<u>Application Completed:</u>	01/03/2002

REASON(S) FOR REFUSAL OF PERMISSION ATTACHED OVERLEAF

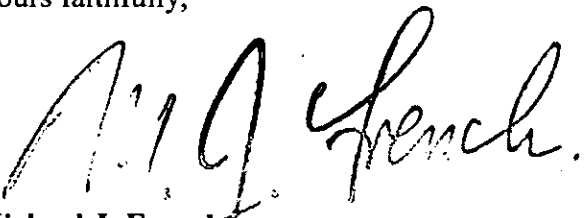
REASON(S) FOR REFUSAL:

1. The proposed telecommunications equipment, by virtue of its bulk and height and prominent position on a highly visible roof would result in significant harm to the special architectural character of the listed building and to the character and appearance of the conservation area contrary to the Council's policies as set out in the Conservation and Development chapter of the Unitary Development Plan, in particular policies CD25, CD44, CD52, CD53 and CD58.

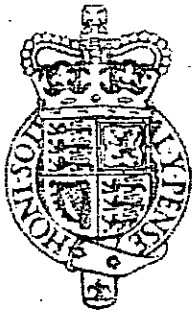
INFORMATIVE(S)

1. You are advised that a number of relevant policies of the Unitary Development Plan were used in the determination of this case, in particular, Policies CD25, CD44, CD52, CD53 and CD58. (I51)
2. You are advised that insufficient information was submitted to enable an assessment of the health risk of the proposed equipment.

Yours faithfully,



Michael J. French
Executive Director, Planning and Conservation



Appeal Decision

Site visit made on 29 October 2002

by C J Ball DArch(Dist) DArchCons RIBA IHBC FRSA

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
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inspectorate.gsi.gov.uk

Date

12 NOV 2002

Appeal A: APP/K5600/A/02/1092452

9 Wilbraham Place, London SW1

- 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 O2 (UK) Ltd (Formerly BT Cellnet) against the decision of The Council of The Royal Borough of Kensington & Chelsea.
- The application (Ref.PP/02/00439), dated 21 February 2002, was refused by the Council by notice dated 19 April 2002.
- The development proposed is the erection of a telecommunications base station consisting of 6 tripod-mounted antennae, 2 tripods, 3 Nokia Ultrasite outdoor cabinets, 2 Nortel BT outdoor cabinets and 1 external Diplexer cabinet, with associated feeders and ancillary equipment.

Summary of Decision: The appeal is dismissed.

Appeal B: APP/K5600/E/02/1092453

9 Wilbraham Place, London SW1

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by O2 (UK) Ltd (Formerly BT Cellnet) against the decision of The Council of The Royal Borough of Kensington & Chelsea.
- The application (Ref.LB/02/00440), dated 21 February 2002, was refused by the Council by notice dated 19 April 2002.
- The works proposed are the erection of a telecommunications base station consisting of 6 tripod-mounted antennae, 2 tripods, 3 Nokia Ultrasite outdoor cabinets, 2 Nortel BT outdoor cabinets and 1 external Diplexer cabinet, with associated feeders and ancillary equipment.

Summary of Decision: The appeal is dismissed.

Preliminary matters

1. The applications were refused for similar reasons so I shall consider the appeals together.
2. The base station would be installed on the flat roof of the building. At my visit, residents of the building would not permit entry by the appellant's representative. With the agreement of all the parties, I made an unaccompanied inspection of the roof.

Main issue

3. I consider the main issue in these appeals to be the effect the proposed installation would have on the character of 9 Wilbraham Place as a building of special architectural and historic interest and on the character or appearance of the Sloane Square Conservation Area, within which it is located.

Planning policy

4. The development plan for the area is the Royal Borough of Kensington and Chelsea Unitary Development Plan (UDP), adopted in May 2002. Policy CD25 is intended to ensure that all development is of a high standard of design, sensitive to and compatible with its surroundings. Policy CD44 permits alterations only where the external appearance of buildings or the surrounding area would not be harmed. Policies CD52 seeks to ensure that any development in a conservation area preserves and enhances the character or appearance of the area. Policy CD53 is intended to ensure that all development in a conservation area is to a high standard of design and is compatible with surrounding development. Policy CD58 resists proposals to alter listed buildings unless they meet an itemised list of specific criteria. National telecommunications policy is set out in PPG8 *'Telecommunications'*.
5. I am also required, by Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural and historic interest which it possesses. Section 72 of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. I shall be guided in this by the government advice set out in PPG15 *'Planning and the Historic Environment'*.

Reasons

6. The building is a distinguished late 19th century apartment block and is listed grade II for its special architectural and historic interest. Although the roof itself is flat, with no parapet, the roofline is varied. A range of decorative window heads, cupolas, chimneystacks and penthouses gives the building an interesting and irregular profile in more distant views. To my mind, this is an important part of the design of the building and one that contributes significantly to its special interest.
7. The building is typical of the area, which is characterised by a mix of 18th, 19th and 20th century houses and apartment blocks of between 5 and 7 storeys. These are interspersed with a variety of larger buildings and open spaces, the most significant of which is Cadogan Place, to the north.
8. The telecommunications installation would consist of a group of equipment cabinets and 2 sets of antennae. This is intended to replace an existing installation on the roof of the nearby former telephone exchange, which I understand is to be removed. This will result in a gap in local coverage. The need for replacement coverage is not questioned, and any site able to provide the required coverage is likely to be within the conservation area. I note the range of alternatives considered and I agree that, since PPG8 encourages the use of rooftop locations, in principle the roof of this building is an acceptable location.
9. The equipment cabinets would be located in a deep recess formed by the tank room, a chimneystack and the rear wall of an elevational cupola. A further chimneystack to the west would ensure that the equipment would be almost entirely screened from view. A set of 4 panel antennae would be located on the northern edge of the roof and a set of 2 at the southern edge. The 2 metre high vertical antennae sets would be supported by a free-standing tripod framework.

10. In my view, the antennae sets would be very prominent features at the edges of the roof. In design terms, they would be somewhat incongruous, reflecting nothing of the more robust, decorative features of the roofscape. The antennae would be seen in profile against the sky from the surrounding streets. The antennae sets would also be very visible from the upper floors of the surrounding residential buildings. In longer views, particularly from Cadogan Place, they would be a discordant addition to the roofline. In my view, painting the antennae to match the chimney brickwork would do little to mitigate the harmful impact. I consider that the effect the antennae would have on the roofline would undermine the special interest of the listed building and the contribution it makes to the character of the conservation area. Neither would be preserved.
11. I come to the view that the need for a base station in this location does not outweigh the harm that the proposed installation would cause to the listed building and the conservation area. I consider that the proposal would conflict with UDP policies intended to ensure a high quality of design particularly in relation to listed buildings and conservation areas. I find that the proposal would have a significantly adverse effect on the character of 9 Wilbraham Place as a building of special architectural and historic interest and on the character and appearance of the Sloane Square Conservation Area.

Other matters

12. Local residents have expressed concern about the health implications of the installation. Such concern is a material consideration and a matter which the government has investigated. An independent study – the Stewart Report of May 2000 – found that, while the balance of evidence does not suggest that mobile phone technologies put the health of the general population at risk, the possibility of harm cannot be ruled out. For this reason, the Report suggests that a precautionary approach should be adopted.
13. The government has accepted this advice. PPG8 deals with the health issue in the light of the recommendations of the Stewart Report. Electromagnetic emissions from mobile phone base stations are required to meet extremely stringent guidelines set by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). Adoption of the ICNIRP guidelines forms part of the precautionary approach designed not only to exclude all known health risks but also to minimise the risk of potential but as yet unascertained health effects. This is intended to safeguard local residents from any harmful effects of the installation. It is the government's view that, where a proposal meets ICNIRP guidelines, it should not be necessary for the planning system to consider further the health aspects of an installation and concerns about them.
14. The appellants confirm that this installation would meet the ICNIRP guidelines, so the proposal accords with the precautionary approach adopted by the government and set out in PPG8. I find no clear and convincing reason that would outweigh national policy considerations in this case. Accordingly I find that local residents' concerns about perceived health and safety risks do not justify withholding permission.

Conclusions

15. Nonetheless, I find that the proposal is unacceptable because of the harm it would cause to the listed building and the conservation area. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should be dismissed.

Formal Decision

Appeal A:

16. In exercise of the powers transferred to me, I dismiss the appeal.

Appeal B:

17. In exercise of the powers transferred to me, I dismiss the appeal.

Information

18. A separate note is attached setting out the circumstances in which the validity of these decisions may be challenged by making an application to the High Court.



Inspector