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# Appeal Decision

Site visit made on 10 May 2022

**by F Rafiq BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 May 2022**

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**Appeal Ref: APP/M0655/W/22/3290409**

**Riverside Retail Park, Vernon Street, Warrington WA1 2HG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of The Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by MBNL against the decision of Warrington Borough Council.
  - The application Ref 2021/39903, dated 29 July 2021, was refused by notice dated 8 December 2021.
  - The development proposed is described as a 25m High Valmont Slimline Climable Monopole and associated ancillary works.
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## Decision

1. The appeal is dismissed.

## Procedural Matters and Main Issue

2. Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order, 2015, as amended (GPDO) grants planning permission for some forms of development by or on behalf of an electronic communications code operators subject to limitations and conditions.
3. The main issue is whether the proposed installation complies with the description of permitted development with specific regard to paragraph A.1 (1) (c) of Schedule 2, Part 16, Class A of the GPDO with regards to its height and whether it is located in the highway.

## Reasons

4. The provisions of Part 16 of the GPDO at A.1 (1) (c) (ii) state that development is not permitted in the case of the installation of a mast, if the mast, excluding any antenna would exceed a height of 20m above ground level on article 2(3) land or land which is on a highway.
5. There is no dispute between the main parties that the height of the mast would exceed 20m. The appellant has stated that the proposal is on privately owned land and as such, does not conflict with the relevant criteria at Part 16 of the GPDO.
6. However, the Council consider the appeal site to be a highway. They have provided an extract from their mapping records which identify the site as an unclassified highway. The appellant has not provided any compelling evidence to the contrary. In addition, the appellant's Appeal Statement<sup>1</sup> also references

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<sup>1</sup> At paragraph's 3.1 and 3.4

the site as being 'located on highways land'. From my site observations, the appeal site forms part of a grass verge, which is separated by a hedge and wall from a car park associated with a neighbouring land use. Both visually and physically the appeal site appears to form part of the highway. From the evidence before me, including my site observations, the proposal would be sited on a highway.

### **Conclusion**

7. For the reasons given above, and taking into account all other matters raised, I conclude that the proposed installation does not comply with the description of permitted development as it exceeds 20m height above ground level on land which is on a highway. The requirement for prior approval in relation to siting and appearance does not therefore fall to be considered, and I conclude the appeal should be dismissed.

*F Rafiq*

INSPECTOR