



Appeal Decision

Site visit made on 14 September 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/U5360/W/20/3254481

Clinger Court, Hoxton Street, Hobbs Place Estate, London N1 5HY

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by MBNL (EE (UK) Ltd and H3G (UK) Ltd) against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2019/3803, dated 24 October 2019, was refused by notice dated 18 December 2019.
 - The development proposed is The installation of 12 no. antenna apertures mounted on 3 no. support frames on the roof of the building, the installation of 4 no. transmission dishes, 10 no. equipment cabinets and a meter cabinet at ground-level and development ancillary thereto.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the time the appeal was lodged, the Hackney Local Plan 2015 has been replaced by the Hackney Local Plan 2033, adopted July 2020. The policies that were listed within the Council's reason for refusal included policies DM1 (High Quality Design), DM28 (Managing Heritage Assets) and DM30 (Telecommunications). These policies are now replaced by the adopted plan and relate to Policy LP1 Design Quality and Local Character, and Policy LP11 Utilities and Digital Connectivity Infrastructure.
3. The appellant has been made aware of the change in local policy. I am satisfied that the interests of both parties have not been prejudiced by my determining this appeal in accordance with the up to date policy framework, as I am required to do in any event.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal follows a decision by the Council not to give their approval for the siting or external appearance of a development that would otherwise be permitted under Part 16 of Schedule 2 to the Town and Country Planning

(General Permitted Development)(England) Order 2015 (GPDO) (as amended). The permission granted under the GPDO is, with consideration of the proposed development, only limited to its siting and appearance, not the principle of the development.

6. The operators EE Ltd and Hutchinson 3K UK explains within their Statement of Case they have formed a strategic partnership to share infrastructure assets. They state that there is a technical need for the infrastructure, and it would provide coverage once an existing operational site from Hyde Road has been removed. The appellants explain that the proposed design solution of 12 No. antenna apertures mounted in groups of 4 No. via steel frames to be positioned on the northeast, northwest and southeast side of the roof together with 4 No. pole mounted dishes and 10 No. equipment cabinets and a further single cabinet to be positioned at ground level would fulfil their technical needs to provide the required coverage. Alongside 5G technology, the infrastructure would accommodate 2G, 3G and 4G technology.
7. A number of Government statements to support and drive towards advanced digital connectivity has been referenced by the appellants including the London Plan 2016 and London Infrastructure Delivery Plan 2050 and the London Mayor's report on Raising London's High Speed Connectivity to World Class Levels, and the need to support digital technologies and their growth. This also includes the Code of Best Practice to support high quality communications infrastructure. Furthermore, the National Planning Policy Framework also recognises the importance of the telecommunications industry.
8. The deployment of advanced next generation 5G technology, the public, social and economic benefits of mobile connectivity, its part in the role of the emergency services responses, the implications of Covid-19 and greater demands imposed on the digital and technology industry, is obvious to me. Alongside health care services, it would contribute to education delivery and manufacturing industry. I accept the significance of the telecommunication sector and am mindful of these intentions and its advantages in my assessment.

Character and Appearance

9. The appeal site is a fairly modern and substantially sized 11 storey flat roofed block of apartments located within the Hobbs Place Estate and is the tallest of the cluster of flats in the estate. Furthermore, it has its own sense of dominance as it is the highest of all the surrounding buildings. It is seen in public views from the surrounding streets of Hemsworth, Pitfield and Hoxton Streets.
10. It is obvious from site inspection that the character of the area is typified by residential flat roofed developments. This includes the new leisure centre currently under construction as it is also characteristic of the typical square shaped, flat roofed developments within close quarters to it.
11. Save for the few metal safety barriers, chimney stacks, aerials and satellite dishes, and a limited number of roof top terraces, the roofs, many of which are clearly visible to the eye, are sparse of roof top clutter. This has a consequential effect of creating an attractive visual quality to the roofscape.

12. The installation of the aperture's equipment positioned on steelwork roof-pods would be located to three corners of the block with the remaining corner largely dedicated to equipment cabinets. The proposed equipment would protrude well above the flat roof by approximately 2.1m including the cabinets would also stand proud of the roof. Despite the fact the proposed equipment would be set in slightly from the edges, the antennas within a cluster would face the outside of the building, emphasising their appearance. As a substantial amount of equipment is proposed and is visible above the roof, it would appear as a discordant feature within the locality.
13. Clinger Court is clearly seen in views from Shoreditch Park as it is the most prominent building seen in views towards the south. Currently the park enjoys a significantly unaltered silhouette to the roofscapes of these buildings. This proposal would introduce a prominent and visually discordant feature to it. Furthermore, given its position surrounded by other roads including Hyde Road and Pitfield Street, this building is already a tall feature within the area, thus the equipment would result in visual intrusion to the roofline when viewed from these public vantages.
14. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. The Framework also acknowledges the contribution made by the setting. Harm to or loss of the significance of a designated heritage asset from its alteration or destruction, or from development within its setting requires clear and convincing justification.
15. Also, in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
16. Whilst not located within the curtilage of a listed building, the proposed equipment would be seen from Hemsworth Street above the Grade II listed church of St Anne's Hoxton. Clinger Court already has an effect on the setting of the listed building given its dominance, the proposed development would increase its presence further by the contribution of the clutter of telecommunications apparatus. It would result in harm arising to its significance.
17. The Hoxton Street CA is characterised by its eighteenth century houses and a large number of nineteenth century buildings with the changing pattern of development contributing to the interesting and varied buildings and roof lines which are an essential element of the area's character. Having viewed the appeal site and its close proximity to this CA, it is a prominent backdrop to this CA. The addition of the infrastructure to the roof would be clearly apparent and would accentuate the mass of the existing building. It would appear as an obtrusive addition to the roofline that would not enhance its significance but would rather result in harm arising to the character and appearance of the CA.
18. With regard to its effect on the character or appearance of the Regent's Canal Conservation Area, this CA is recognised for its contribution to the waterway

network as cargo trading. Many converted warehouses flank the canal and are a reminder of the industrial past associated with the freight traffic that carried wares. Clinger Court is already a tall building and seen in parts from the CA. The proposal would accentuate it, and harm would arise to the CA's setting.

19. Sixteen alternative sites have been considered and discounted by the appellants and I accept that this is not an insurmountable number to investigate. Whilst the appellants comment that mast sharing is not feasible, I have no evidence provided by them to demonstrate this.
20. Other inspector decisions brought to my attention¹ by the appellants acknowledge the public benefits of telecommunications equipment that have outweighed the harm that would arise. However bringing all matters together, given the proliferation of equipment to all corners, as a consequence the roofscape would take on a cluttered appearance and would result in harm arising to the character and appearance of the street scene and to the character and appearance of the CA as I have identified.
21. On this basis, the proposal would not comply with the Hackney Local Plan 2033 Policy LP1 that seeks new development to be of highest design quality by responding to character and context and to preserve or enhance the significance of the historic environment. Whilst it would not strictly comply with Local Plan Policy PL11 which relates to utilities and digital connectivity infrastructure to integrate into the development, this is not a new build development where this policy would be more appropriately applied. However, it would not comply with the Hackney's Public Realm Strategy 2012 in its objectives to create successful places.
22. It would conflict with the London Plan 2016 Policies 7.4, 7.5 and 7.6 in its purpose to have regard to form, function and structure of an area and to relate to local context and incorporate highest quality design, and Policy 7.8 for development to value and conserve heritage assets.

The balancing exercise

23. I have balanced the proposal against the public benefits that would ensue, lost coverage within the area, technical constraints, and furthermore I fully appreciate the gravity of the significance of the telecommunication industry in its role to grow the economy. The discounted sites, its appearance within the street scene as well as the other evidence presented together with the justifications put forward by the appellant, have all been given due regard in my assessment. However, despite the evidence presented, bringing all these factors together, the harm I have found that would arise to the character and appearance of the area does not weigh in favour of the proposal for prior approval.

Other Matters

24. I am aware of the petition objections received to the proposal relating to television network interference, health and wellbeing concerns although as I am dismissing the appeal, there is no requirement to comment further.

¹ Appeal Refs APP/M5450/W/17/3180345, APP/R5510/W/16/3143922 & APP/3197522

Conclusion

25. For the reasons given, the appeal is dismissed.

Alison Scott

INSPECTOR