



Appeal Decision

Site visit made on 12 October 2020

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 25 November 2020

Appeal Ref: APP/U5930/W/20/3245417

Telecommunications Site T Mobile Rooftop, 152-160 Blackhorse Road, Walthamstow E17 6NH

- 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 MBNL (EE(UK) LTD & H3G (UK) LTD) against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref: 191314, dated 12 April 2019, was refused by notice dated 25 July 2019.
 - The development proposed is described as 'an upgrade to the existing rooftop communications apparatus consisting of the removal of the 6 x MBNL antenna, 1 x MBNL dish and MBNL cabinets. The installation of 12 x MBNL antenna (16.7m to centre line), 4 x 600mm dishes (at 14.9m to centre) plus ancillary equipment. Removal of existing cabinets and installation of 7 new cabinets at roof level and an AC cabinet at ground level, plus ancillary equipment, all as shown on the drawings'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-
 - i) The effect of the proposed development on the character and appearance of the host building and surrounding area; and
 - ii) Whether the proposed scheme provides sufficient consideration of the use of alternative sites.

Reasons

Character and appearance

3. The appeal site is comprised of a three-storey building positioned to the back edge of the footway of Blackhorse Road. The surrounding area is characterised by two and three-storey buildings which consist of mixed residential, commercial and educational uses. It is situated in close proximity to the Blackhorse underground station. The host building is not located within a conservation area, it is not identified as a listed building nor does it possess any architectural merit.
4. The appeal scheme is for the redevelopment of an existing telecommunications site which is positioned at a height of approximately 9.5 metres above ground level, on the flat roof of the host building. It currently comprises six MBNL antennas mounted in pairs on support poles, an MBNL dish and a number of equipment cabinets (the MBNL equipment). At its highest point, the existing

- apparatus stands roughly 3 metres above roof level. Additional equipment of other telecommunications operators is positioned towards the opposite end of the roof structure, however, these would remain unaltered by the proposal.
5. The proposal would include the removal of the MBNL equipment and their replacement with twelve antenna, 4 dishes and some seven cabinets. There is limited information before me concerning their proposed dimensions and appearance, save for the information provided on the submitted plans. The appellants state that the antenna would be of a similar appearance to the existing antenna, albeit they would be '*marginally wider and longer*'. In addition, they would be relocated closer to the edge of the building on top of the plant room. Taking account of the measurements shown within the provided plans, the plant room is an additional 2.4 metres, approximately, taller than the roof level. Furthermore, the proposed equipment would be approximately 3.5 metres taller than the existing antenna, taking the council's measurements, which have not been disputed by the appellants.
 6. It is the appellants case that the proposed height of the equipment is the minimum that is capable of providing an effective 5G service without interference. At their tallest point, these structures would be in the region of 18.2 metres above ground level. They would tower markedly above the existing building, adjacent buildings and street furniture. The inclusion of a significant quantity of antenna would provide additional bulk to these tall structures. The introduction of significantly taller equipment than that which presently exists would have a material implication for local character and appearance.
 7. The Council consider that the existing telecommunications equipment has a negative impact on the character and appearance of the surrounding area. I observed that some of the existing equipment was visible from the public realm, albeit, given their modest size and number the eye is not readily drawn to them when viewed from the public realm. They are viewed against the backdrop of the existing plant room. In any event, the MBNL equipment is presently in situ and therefore the issue is whether the proposal by reason of its height, bulk, scale and siting would cause actual harm.
 8. The appellants assess the impact of the proposed development as '*minor*', however, I disagree with that assessment. At such an increased height along with a marked increase in bulk from the additional antenna, dishes, cabinets and ancillary equipment, the proposed development would appear incongruous and strident and result in a visually cluttered appearance to the host building. Given its excessive height the eye would be naturally drawn to it. The proposal would not blend with the existing plant room or advertising hoarding, nor would it be read in the context of the existing vertical features of the streetscene but rather as a strident addition to the skyline. It would represent a significant change in appearance from the existing situation. The intention to paint it grey would not mitigate it in this regard.
 9. On approach from the junction with Forest Road, the appeal site is located on a bend where the highway slopes upwards towards the appeal site. Consequently, it is readily visible. Moreover, in its contextual setting, within a heavily built up area and positioned on a busy highway which I observed to be frequented with motorists, cyclists and pedestrians, the appeal proposal would be highly visible over a wide area, including the highway, the educational

establishment positioned on the opposite site of the road and surrounding residential and commercial properties.

10. The proposed scheme would include a number of equipment cabinets which would be sited at roof level of the host building. It is the appellants case that these would amount to permitted development. However, it is reasonable to assume that the cabinets would not be installed in this position without any accompanying antenna. Moreover, the appeal scheme before me includes the whole installation and therefore it is appropriate to consider the cumulative impact of the whole proposal.
11. A further cabinet would be installed at ground floor level. Its intended location would be located next to existing cabinets to the side of the host building. As a single and separate entity in the region of 2.5 square metres, I find it would have little material impact on the streetscene.
12. Nonetheless, taken overall, the visual impact of the proposal would be significant given its height and design. Accordingly, by reason of the scale of the proposal and its prominent location within the townscape, there would be a significant adverse visual effect which would be harmful to the character and appearance of the host building and the surrounding area.
13. Accordingly, I conclude that the proposed development would represent an incongruous and intrusive addition to the streetscene which would cause significant harm to the character and appearance of the host building and surrounding area. Thus, it would be contrary to Policies DM29, DM32 and DM37 of the Waltham Forest Local Plan Development Management Policies (2013)(LP). Among other things, these policies require a high standard of urban and architectural design for all new development and the design of telecommunications developments to be carefully considered so as to keep the visual impact of the development to a minimum.

Alternative Sites

13. More antenna that emit signals are required at this site. The current installation is not capable of supporting these additional antennas and therefore a proposed upgrade is required. Paragraph 113 of the National Planning Policy Framework (the Framework) requires that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. The use of existing masts, buildings and other structures for new electronic communications capability should be encouraged. In this respect, the proposal aligns with these aims of the Framework.
14. However, there is little detailed information before me concerning any alternative options for the proposed development. The appellants advise that there is no scope to reduce the height of the proposal without adversely affecting telecommunication coverage. They state that the proposal and its design is the sequentially preferred option in accordance with the Code¹, although this has been disputed by the Council. The alternative, according to the appellants, would be a taller single structure supporting all antenna or additional sites would be required, leading potentially to a proliferation of

¹ ¹ The Code of Best Practice on Mobile Phone Network Development

masts in an area of high demand. I do not find the appellants evidence persuasive. Alternative sites were not considered as the existing facility is already an established feature in the streetscene. That is not to say, of course, that there are no alternative sites available. However, an absence of information concerning alternative sites fails to demonstrate that there is a lack of suitable alternatives, which if that were to be the case, would increase the weight to be ascribed in favour of the proposed scheme.

15. For the reasons given above, having concluded that the proposal would cause significant harm to the character and appearance of the host building and the surrounding area, the proposal fails to adequately justify the proposed scheme at the appeal site. Thus, the proposal conflicts with the provisions of LP Policy DM37, as set out above.

Other Matters

16. The impact of the proposal on the character and appearance of the host building and the surrounding area needs to be set against the need for the upgraded facility. The Framework places importance on supporting high quality communications and on achieving well-designed places. Paragraph 112 recognises that *'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G)'*. Paragraph 113 states that new equipment should be sympathetically designed and camouflaged where appropriate.
17. The appeal scheme would upgrade the existing site to accommodate ongoing 2G/3G/4G coverage and capacity requirements to the surrounding area. It would also enable new 5G services within the area, including the railway line, which is not currently available in this cell area for the operator. It would achieve site sharing by two operators which is a matter that is encouraged by the Code.
18. A 5G service would be capable of achieving environmental benefits insofar as it would enable businesses and communities to operate more efficiently, manage traffic flow, monitor air quality and control energy usage. The appellants suggest that the Covid-19 pandemic has created additional demand on the existing network and that a 5G network would offer people the opportunity to work, socialise and interact differently which would reduce the need for people to travel. However, whilst this would amount to an environmental benefit weighing in favour of the proposal, the benefits of the proposed scheme would be largely limited to the customers of the operator using the mast rather than the wider public. I am mindful that the EE network is utilised by the Emergency Services Network and as such this increases the weight I attach to these matters. I therefore attach moderate weight to the public benefits of the proposal.
19. My attention has been drawn to several previous appeal decisions². I concur with the view that a balancing exercise must be carried out that weighs the need for telecommunications equipment and the public benefits against the harm in allowing the development to take place. However, having regard to the

² APP/G5180/W/3151769 Chelsfield Road, Orpington; APP/X5990/W/16/3162918 55-59 Oxford Street, London; App/Z5630/W/3144704 Hook Road, Surbiton and APP/V2004/A/11/2154903 Anlaby Road, Hull.

previous appeal decisions, I note that there are clear material differences between the scheme at appeal and the individual circumstances surrounding the above appeals. Parallels are not easily drawn as each case is determined on its own merits and the particular circumstances involved. Thus, I have afforded these little weight. I have determined the appeal before me based upon its individual planning merits.

Planning balance

20. The proposal is for the redevelopment of an existing telecommunications site. The provision of improved high-quality, reliable digital connectivity to enable communities to benefit from faster economic growth and greater social inclusion is an important objective within the Framework. This is reinforced by other national documents³.
21. However, in my judgement, the significant adverse impact caused to the character and appearance of the host building and the surrounding area would not be outweighed by the need for the facility and the moderate public benefits of the proposal.

Conclusion

22. For these reasons, having regard to all matters raised, the appeal is dismissed.

E Brownless

INSPECTOR

³ Ofcom Infrastructure Report – Connected Nations 2018, The October 2016 BIG Report