



Appeal Decision

Site visit made on 8 December 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2020

Appeal Ref: APP/N5090/W/20/3244469

Land at Uphill Road/Lawrence Street, Mill Hill, London NW7 4JJ

- 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 and H3G Ltd) against the decision of the Council of the London Borough of Barnet.
- The application Ref 19/2796/FUL, dated 16 May 2019, was refused by notice dated 11 July 2019
- The development proposed is for the installation of a 20m monopole supporting 12no. antennas, equipment cabinets and ancillary equipment, the removal of the existing 10m monopole, supporting 3no. antennas, redundant equipment cabinets and development ancillary thereto.

Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have taken the address in the banner heading above from the application form, omitting unnecessary text. However, for the purpose of this appeal, I consider the site to be located on land at Lawrence Street (opposite Uphill Road). Furthermore, I have taken the description in the banner heading from the Council's decision notice as it is more precise than those listed on the application and appeal forms. I have also taken the name of the appellant from the appeal form.
3. The appeal site is located within the Mill Hill Conservation Area (MHCA), in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Additionally, I have a statutory duty, under Section 66(1) of the Act, to consider the impact of the proposal on the special architectural and historic interest of St Joseph's College (the listed building) and its setting, which is Grade II Listed.
4. The appellant has provided an Arboricultural Impact Assessment¹ (AIA) with their submission, which the Council has reviewed. The Council accepts the findings within the AIA and has withdrawn its second reason for refusal in relation to the protected trees adjacent to the site. I have dealt with the appeal on this basis.

Main Issue

5. The main issue of this appeal is whether the proposed development would

¹ Arboricultural Impact Assessment undertaken by SJ Stephens Associates dated 2 December 2019

preserve or enhance the character or appearance of the MHCA, the setting of the listed building and the adjacent Green Belt.

Reasons

6. The proposal is for the replacement of an existing 10m high monopole (the existing installation) with a 20m monopole, together with equipment cabinets and ancillary development (the proposed development). The appeal site is part of a grass verge running along the side of Lawrence Street. On the section of Lawrence Street where the site is located, there is no footpath, where the verge is separated from the carriageway by a kerb. In front of the existing installation is a street light and a traffic sign. Behind the verge is a variety of mature deciduous trees that provide the backdrop to the site. Collectively, the canopies of the trees in the immediate vicinity of the site are lower than the existing installation and other street furniture on Lawrence Street, except for a couple of examples. Opposite the site is the junction of Uphill Road.
7. The verge contains the existing installation, which includes the 10m monopole and a number of cabinets. In addition to the lighting column and traffic sign, a telegraph pole is in proximity. Other lighting columns, traffic signs and 2no. bus stops are also present, with the bus stop on the opposite side of the road to the site, having a shelter. The existing installation is clearly visible from views within the public realm along Lawrence Street, on both sides of the carriage way as there is a notable absence of screening or landscaping to the front of the development. Furthermore, when approaching the Uphill Road junction with Lawrence Street, the existing installation is even more noticeable due to it being sited directly opposite.
8. The proposed development would replace the existing installation with a 20m monopole, which would be sited in proximity of the existing installation, albeit located in the direction towards the bus stop on the same side of the road as the site. The proposed development would have a wrap-around cabinet at its base and 7no. separate cabinets adjacent. I note that a number of the existing cabinets would be removed as part of this installation. Nonetheless, on the details before me, the existing redundant 2G LMC cabinet would be retained.
9. The appeal site is located in a visually prominent location within the MHCA. The site is located within the Old Forge and Lawrence Street character area, where the listed building is mentioned as a key characteristic, amongst other things. The MHCA Character Appraisal² noted the listed building as a large purpose built missionary college built in the Victorian Gothic style, set within extensive grounds with fine trees. Although, the is in a busy and well-trafficked location, I find that the site makes a minimal to moderate contribution to the significance of this part of the MHCA and has a neutral impact on its wider setting.
10. The appellant has submitted various photographic montages (PM) with their submission to which I have had regard. I also viewed the site from the majority of the locations identified in the PM and I am satisfied that I saw everything I need to assess the impact of the development. I accept that the listed building is set away from the site by a notable distance and the limited opportunities to view the listed building from the site. However, when using the public footpath that runs across the fields to the rear of the site, between Lawrence Street and

² Mill Hill Conservation Area Character Appraisal Statement 2008

Birkbeck Road, I consider that the proposed development would be readily visible when experiencing the listed building and its setting. Although the listing³ does not specifically mention the grounds, I found it apparent, especially the land to the north of the footpath positively contributes to the setting of the listed building, thus forming part of its significance.

11. As the proposed development would extend by some distance above the adjacent trees to its rear, the proposed development would have a notable visual effect on its surroundings, causing significant harm the character and appearance of the locality. Additionally, equipment cabinets on the site would be removed, retained and added, resulting in an overall increase in the number of cabinets on the site, increasing the amount of visual clutter in this location. Although, I find that this is not an unsuitable location in principle for the siting of telecommunications equipment, the existing installation differs significantly from the case before me.
12. Whilst, the existing monopole to be replaced, is visible within the street scene itself, it does not appear unduly prominent or visually intrusive within the context of the adjacent street furniture. I accept that the proposed development retains a monopole form, but it would have a much more visually dominant presence in views from the public realm than the existing installation, particularly due to the combination of its greater height, column width and more bulky and visibly distinct array on top of the supporting column. Thus, the proposed development would not successfully integrate with its surroundings and would appear as a stark, incongruous feature within the street scene. In this instance, I do not consider that a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable.
13. Consequently, the proposed development would fail to preserve or enhance the character or appearance of the MHCA and the setting of the listed building. The harm would be less than substantial, and in applying the balancing test of paragraph 196 of the National Planning Policy Framework (the Framework), I must weigh this harm against the public benefits of the proposal. The installation would be shared between mobile networks and would improve the telecommunications of the area and be of benefit to its users. Whilst recognising the presence of the existing installation, in this instance, I am not convinced that the benefits of the proposed development outweigh the harm to the heritage assets. The statutory duties in Section 72(1) and Section 66(1) of the Act are matters of considerable importance and weight. I consider the proposed development fails to accord with these duties.
14. Although, the site is adjacent to the Green Belt, the thrust of the Framework and Policy DM15 of the Council's Local Plan (Development Management Policies) Development Plan Document 2012 (LP), is on the appropriateness of development within the Green Belt and the effect on its openness. Whilst other harm may be considered, the proposed development would be located outside the Green Belt in any event. Therefore, I do not find that the proposal would be contrary to LP Policy DM15 or the Framework in this regard.
15. For the above reasons, I therefore conclude that the proposed development would fail to preserve or enhance the character or appearance of the MHCA and the setting of the listed building. Thus, the proposed development would

³ 1064866 – first listed on 7 April 1983

conflict with the heritage, design, character and appearance aims of LP Policies DM01, DM06, DM18 and Policy 7.8 of the London Plan 2016. Additionally, the proposed development would not conserve the heritage assets in a manner appropriate to their significance in line with the Framework.

Other Matters

16. In accordance with paragraph 80 of The Framework, I afford significant weight to the economic and social benefits of providing and enhancing electronic communication infrastructure. In this instance, the proposed development would greatly increase the speed and responsiveness of wireless networks that will also enable a sharp increase in the amount of data transmitted over wireless systems due to more available bandwidth and advanced antenna technology. Furthermore, paragraph 112 of The Framework advises that advanced, high-quality and reliable communication infrastructure is essential for economic growth and social well-being and that the expansion of electronic communication networks, including next generation mobile technology, should be supported.
17. The proposed structures would be shared by 2 operators⁴ which would reduce the proliferation of electronic communication equipment in comparison to a situation where operators seek separate installations. I acknowledge that the height of the proposed development must be sufficient to enable local provision and clear surrounding buildings and the installation with 5G also needs to be at the height detailed to clear ICNIRP guidelines and thus there is no scope to lower the height of the array. On this issue, I have no reason to doubt the appellant's evidence that the monopole and cabinets proposed are the minimum necessary and would comply with INCIRP standards. It is also highly likely that the Emergency Services could utilise the network, improve home working and making cities smarter, amongst other things. These factors weigh in the proposal's favour.
18. Paragraph 113 of the Framework also states that the use of existing masts is encouraged. Whilst the new monopole is located in a slightly different location than the existing mast, the proposal development is in essence for the re-use of an existing electronic communications network site. Nonetheless, paragraph 115(c) of the Framework outlines that for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure should be submitted. The requirement for such evidence is relieved only where the proposal is for an addition to an existing mast or base station. The Framework does not exclude replacement masts from such an assessment. As submitted, the proposed development before me relates to a new installation.
19. Consequently, I find that it is necessary to consider alternative sites and information about the network coverage and the gaps in the network coverage that the proposed development seeks to address. Paragraph 82 of The Framework states that the locational requirements of different sectors should be recognised. The appellant's submission asserts that alternative sites were considered and that a sequential approach has been taken, where an absence of tall buildings or masts that could host 2no. additional operators means that there are no alternative sites. However, I find the amount of detail surrounding the investigation of alternative sites to be very limited, which weighs against

⁴ EE Ltd and H3G (UK) Ltd

the proposed development. Thus, I am not satisfied or convinced that undertaking the proposed development at this site is the only way to achieve the identified economic and social benefits.

20. I note that a 20m high monopole and equipment cabinets may potentially be installed under permitted development rights provided by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). However, the appellant advises that the width of the monopole would exceed relevant limitations within the GPDO. Consequently, I am not convinced that there is a greater than a theoretical possibility that the proposed development as outlined above, might take place. Therefore, my conclusions on the main issues remain unaltered.
21. I have also had regard to the appellant seeking to engage with the Council, elected representatives and 2no. local schools, prior to the submission of the application, and to the compliance with ICNIRP standards. However, these matters are of neutral consequence in the assessment of this appeal. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Planning Balance and Conclusion

22. Whilst I accept the absence of other harm arising from the proposed development, including the Green Belt, and the benefits of the proposal that have been identified by the appellant, including the economic and social benefits of upgraded electronic communication infrastructure, these do not outweigh my assessment of the main issue. The proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It would also be at odds with the requirements of the Framework.
23. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR