



Appeal Decision

Site visit made on 2 March 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2021

Appeal Ref: APP/U5360/W/20/3255698

209 Hackney Road, Hackney, London E2 8JL

- 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 Telefonica (UK) Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2020/0477, dated 7 February 2020, was refused by notice dated 21 April 2020.
 - The development proposed is described as 'the retention of the existing rooftop temporary electronic communications apparatus for a period of 18 months'.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of rooftop electronic communications apparatus at 209 Hackney Road, Hackney, London E2 8JL in accordance with the terms of the application, Ref 2020/0477, dated 7 February 2020, subject to the following condition:
 - 1) The development hereby permitted shall be limited for a period of 18 months from the date of this decision, at which point the permitted telecommunications equipment shall be removed from the site and the roof reinstated to its former condition.

Preliminary Matters

2. I have amended the description of development in my formal decision to omit the word 'retention' as this is not an act of development. I have also removed the reference to the temporary period specified as this is controlled by condition No 1.
3. The Council adopted the Hackney Local Plan 2033 Strategic Planning (the HLP) in July 2020 and I therefore give full weight to the relevant policies of the HLP. The Council's decision notice refers to policies of the Hackney Core Strategy and the Hackney Local Development Management Plan, which have now been replaced by the HLP and therefore have had no bearing on my decision.
4. The new London Plan 2021 (LP2021) was published on 2 March 2021. It replaces previous versions of the London Plan and can be given full weight.
5. The proposed development consisting of rooftop electronic communications apparatus has already been installed. I have therefore determined the appeal on the basis of the development that has been carried out.

6. The appellant states that it has previously supplied the local area with 2G, 3G and 4G mobile network coverage and capacity via a rooftop base station development at No 211 Hackney Road. Following receipt of a notice to leave the site due to redevelopment plans, the base station at No 211 Hackney Road was decommissioned. The appellant comments that as a result of a pending loss of network coverage, a temporary base station was deployed on the appeal site and an emergency notice¹ was submitted to the Council on 8 August 2017. This was for the apparatus to be installed on site for a period of 18 months to allow a permanent solution to be identified and implemented. This period has expired, and a permanent solution has not been brought into operation.
7. Consequently, the appellant seeks planning permission to retain the rooftop telecommunications apparatus for a period of 18 months to maintain network coverage while a permanent solution is brought forward. The appellant states that a potential permanent site has been identified at a Council owned property at Fellows Court. The Council has provided no comments in this regard.

Main Issue

8. The main issue is the effect of the development on the character and appearance of the Hackney Road Conservation Area.

Reasons

9. The appeal property is located in the Hackney Road Conservation Area (the CA). The northern side of Hackney Road, which is within the CA, has a mixed character, including commercial and residential uses. The design and appearance of the buildings is varied and includes traditional 2, 3 or 4 storey terraces, as well as taller contemporary buildings. There are a number of listed buildings within the CA, the closest being the Grade II listed building at No 229-235 Hackney Road to the east of the appeal site. The most important views within the CA are along Hackney Road itself, where the varied design and form of the buildings, and the mixed-use character of the thoroughfare, can be appreciated.
10. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be given to the desirability of preserving or enhancing listed buildings and their setting, and the character or appearance of conservation areas, respectively. The telecommunication equipment does not harm the setting of neighbouring listed buildings due to the sizeable separation distances and the minor scale of the development.
11. The telecommunication equipment is set back only a modest amount from the front wall of the appeal building and it protrudes significantly above the flat roofline. As a result, the telecommunication equipment is viewed against the sky and it is conspicuous in views along Hackney Road. Given the utilitarian design of the equipment, it appears as an alien and unsightly feature that detracts from the character and appearance of the CA. The extent of this harm is less than substantial due to the small scale of the development and the reversible nature of the harm.

¹ Pursuant to Schedule 2 Part 16 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

12. In accordance with paragraph 196 of the National Planning Policy Framework (the Framework), where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Paragraph 193 of the Framework sets out that great weight should be given to the asset's conservation. Policy LP3 of the HLP is consistent with this.
13. The Framework advises that high-quality and reliable communication infrastructure is essential for economic growth and social well-being. The information before me indicates that the need for the telecommunication equipment has arisen due to the de-commissioning of the site at No 211 Hackney Road. The colour-coded signal maps provided by the appellant show that the removal of the telecommunication equipment at the appeal site would reduce signal strength in the vicinity, to the extent that reception would be compromised within buildings. On the basis of the evidence before me, I find that the telecommunication equipment provides significant economic growth and social well-being benefits for people that live, work and travel in the area, which includes residential and commercial premises, as well as Hoxton station.
14. Given that the appeal scheme seeks planning permission for the telecommunication equipment for a temporary period of 18 months, this would limit the duration of the harm caused to the character and appearance of the CA. Furthermore, the equipment is easily removeable and the site could be restored to its pre-existing condition. Consequently, these factors would moderate the harm to the character and appearance of the CA. I am satisfied that the appellant has made efforts to find a permanent location, which includes a potential site at Fellows Court. This has not been disputed by the Council. The granting of a temporary permission would allow the appellant to find a permanent site whilst supporting economic growth and social well-being in the meantime.
15. I conclude that the less than substantial harm that the development causes to the character and appearance of the CA is outweighed by the significant public benefits of the proposal. It therefore accords with Policy LP3 of the HLP and Chapter 16 of the Framework.

Conditions

16. A condition to restrict the period for which the development is permitted is necessary for certainty and to set out what is required once the period ends.

Conclusion

17. For the above reasons, I conclude that the appeal should be allowed.

C Osgathorp

INSPECTOR