



Appeal Decision

Site Visit made on 5 May 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2021

Appeal Ref: APP/E5900/W/20/3260925

346 Bethnal Green Road, Bethnal Green, Tower Hamlets, London E2 9QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 against the decision of London Borough of Tower Hamlets.
- The application Ref PA/20/01577, dated 21 July 2020, was refused by notice dated 18 September 2020.
- The development proposed is telecommunications rooftop installation upgrade and associated works. Top of Apertures 17.7m AGL.

Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of telecommunications rooftop installation upgrade and associated works. Top of Apertures 17.7m AGL at 346 Bethnal Green Road, Bethnal Green, Tower Hamlets, London E2 9QW dated 21 July 2020 and the plans submitted with it including Site Location Plan Drawing Number 1209989_TOH112_13960_EO640_M001 002A; Existing Site Plan Drawing Number 1209989_TOH112_13960_EO640_M001 100A; Existing Elevation A Drawing Number 1209989_TOH112_13960_EO640_M001 150A; Max Configuration Site Plan Drawing Number 1209989_TOH112_13960_EO640_M001 215A; Max Configuration Elevation Drawing Number 1209989_TOH112_13960_EO640_M001 265A; and Cabin/Internal Room Layout Drawing Number 1209989_TOH112_13960_EO640_M001 330A.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are:

- Whether or not the proposed development satisfies the limitations specified within paragraphs 6(a) and (c) of Part 16, Class A of the GPDO; and
- The effect of the proposed development upon the character and appearance of the host property and area.

Reasons

Limitations of the proposed development

5. The proposed development would replace and upgrade the existing shared operator apparatus with 5G technology fixed on the appeal building. The Council state that the proximity of the development and the total quantum of antennas would not accord with paragraphs 6(a) and (c) of Part 16, Class A of the GPDO.
6. Paragraph 6 relates to developments for small antennas. The definition of small antennas in this context is set out in paragraph A.4 and based on the evidence before me the proposed development does not meet this definition. I therefore conclude that the limitations set out at paragraphs 6(a) and (c) of Part 16, Class A of the GPDO are not relevant to the appeal proposal before me.
7. The limitations relevant to building based apparatus are specified at Part 16 paragraphs 2(a)–(f). As the development includes the installation of rooftop apparatus, it follows that determination as to whether prior approval as to the siting and appearance of the development is required in accordance with provisions at condition A.2(3) and paragraph A.3.

Character and appearance

8. The appeal building comprises a four-storey mixed use building fronting Bethnal Green Road located within a busy commercial area. Whilst the appeal building is taller than neighbouring buildings the surrounding area includes properties that vary in terms of scale, appearance and roofscape. The building backs onto Voss Street which has a narrow back alley character with buildings of a smaller scale.
9. The building houses existing telecommunications apparatus that overhangs the roof and is fixed to a small area of the front and rear elevation of the building and projecting forward of the façade.
10. The proposed development would be viewed within a bustling urban environment with a variety of building forms and scales and a varied roofscape. The proposed development would result in taller and additional apparatus on the building. However, taking into consideration the height of the building and the high level position and the small scale of the proposed development it would be unobtrusive and would not stand out as an unduly prominent feature, either at close range or from longer range views when viewed from street level, notwithstanding its projection from the façade.
11. Whilst it would result in some visual impact, it would be highly limited. Given its overall proportions and the scale of the proposed development it would not be unduly dominant or cumulatively result in visual clutter. The proposal would

sit acceptably on the building and within the area and would not be an incongruous or visually intrusive feature within this urban setting.

12. I note that the Council has historically resisted the installation of apparatus on the building. The existing equipment is established, and the Council accept it is immune from enforcement action and is a feature that makes up part of the area's character and appearance. Despite the operator not considering alternative sites, the National Planning Policy Framework, at paragraph 113, is clear that the use of existing masts, buildings and other structures for new electronic communications capability should be encouraged. This would be the case in this specific regard and based on the evidence before me the appeal site remains a viable option for the apparatus. As such, the absence of an exercise to consider alternative sites does not lead me to reach a different conclusion.
13. I conclude that the siting and appearance of the proposed development would not adversely affect the character and appearance of the host property or the area. In this regard it would accord with Policies S.DH1, D.DH2 and D.DH11 of the Tower Hamlets Local Plan (2020) which, amongst other things, require new development to respect and respond positively to its context, the creation of attractive public spaces and that new telecommunications apparatus does not detract from the amenity of surrounding properties.

Conditions

14. Standard conditions are set out in the GPDO for development permitted under Class A, Part 16 and as such it is not necessary to impose conditions beyond those.

Conclusion

15. For the reasons set out above the appeal is allowed and prior approval is granted.

B Thandi

INSPECTOR