
Appeal Decision

Site Visit made on 20 October 2021

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2021

Appeal Ref: APP/E5900/W/21/3272180

24-26 Gillender Street, London E3 3LB

- 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 Ltd and H3G UK Ltd against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/20/01660, dated 5 August 2020, was refused by notice dated 30 September 2020.
 - The development proposed was originally described as 'The installation of 3no roofpods accommodating 12no antenna apertures (4no per roofpod) 2no transmission dishes (1no on a new mafi frame, 1no on an existing mafi frame), plus 3no equipment cabinets on the rooftop, and 1no meter cabinet at ground-level, and ancillary development thereto. As part of this proposal, 4no existing antennas and supporting freestanding frames, 2no existing antennas and support poles, 2no equipment cabinets (roof-level) and 1no meter cabinet (ground-level) will be removed'.
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Decision

1. The appeal is allowed, and planning permission is granted for 'The installation of 3no roofpods accommodating 12no antenna apertures (4no per roofpod) 2no transmission dishes (1no on a new mafi frame, 1no on an existing mafi frame), plus 3no equipment cabinets on the rooftop, and 1no meter cabinet at ground-level, and ancillary development thereto. As part of this proposal, 4no existing antennas and supporting freestanding frames, 2no existing antennas and support poles, 2no equipment cabinets (roof-level) and 1no meter cabinet (ground-level) will be removed' at 24-26 Gillender Street, London E3 3LB in accordance with the terms of the application, Ref PA/20/01660, dated 5 August 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg Nos: 002 Site Location Plan; 100 Existing Site Plan; 150 Existing Site Elevation; 150 Existing South Elevation; 151 Existing West Elevation; 152 Existing North Elevation; 153 Existing East Elevation; 215 Max Configuration Site Plan; 215 Proposed Site Plan; 265 Max Configuration Elevation; 265 Proposed South Elevation; 266 Proposed West Elevation; 267 Proposed North Elevation; and 268 Proposed East Elevation. All Rev B.

Preliminary Matters

2. The address in the banner heading above is taken from the Council's decision notice which accurately and clearly describes the site location.

3. Although both parties refer to potential discrepancies in the increased roof top height of the host building which has been previously approved, the application was determined on the basis of the submitted plans. At the time of my site visit, I saw that the construction works at the site were being undertaken. For clarity, I have assessed the proposals based on the plans submitted with the application.

Main Issue

4. The main issue is whether the proposed roof structures would preserve or enhance the character and appearance of the Limehouse Cut Conservation Area including the effect on the character and appearance of the locally listed building.

Reasons

5. The appeal site is located within the Limehouse Cut Conservation Area (CA), a former waterside industrial area with a rich industrial history and a character that, despite erosion over the years, still defines its significance.
6. The appeal host building is locally listed and, as a large 1930's bonded warehouse, its historical associations with the area's industrial past, along with its architectural interest, make a positive contribution to this part of the CA.
7. The proposed development would be positioned on the roof of the building and, as such, the architectural features that contribute to its interest, including amongst other things, the exposed concrete frame and columns and brick panels would all remain clearly evident. Moreover, the presence of the telecommunications equipment on the roof would not alter the understanding of the building's historical industrial associations.
8. The positioning of several pieces of equipment spread across this section of roof would also, in this respect, not be at odds with the horizontal emphasis of the host building. Despite this, the equipment would draw the eye more than the existing equipment and would appear as modern, unattractive equipment contrasting with the historic grain of the host building.
9. The proposed development would have a greater visual presence in the public realm within the CA than the existing equipment on the building and would be seen from several locations, including the riverside footpath. However, the proposed equipment would not be positioned on the highest section of the roof of the main building. Moreover, the maximum height of the equipment would not appear dissimilar to the highest part of the roof of the main building. In the context of much taller residential flat buildings in the immediate vicinity, the proposals would not appear as particularly tall features.
10. Drawing the above together, the increased visual presence of such modern unsightly equipment on the roof would result in a small degree of harm to the character and appearance of the locally listed building and surrounding CA. This would bring conflict with the requirements of Policy HC1 of the London Plan (2021) and Policy S.DH3 of the Tower Hamlets Local Plan (2020) (LP). These stipulate, amongst other things, that proposals affecting heritage assets should conserve their significance.
11. Whilst there would be a degree of harm to the locally listed building and CA, the extent of harm would be small. Although the harm may be less than

substantial, any harm to the CA is a matter that attracts great weight, having regard to paragraph 199 of the National Planning Policy Framework (the Framework) and the statutory duty to preserve or enhance CA's. In accordance with paragraph 202 of the Framework I must balance that less than substantial harm against the public benefits of the proposals. Moreover, in line with paragraph 203 of the Framework, any direct or indirect effects to a non-designated heritage asset needs to be balanced against other factors, including the benefits of the proposals.

12. In addition, Policy D.DH11 of the LP stipulates, amongst other things, that the installation of new telecommunications apparatus is required to minimise its impact on the street scene and not unacceptably harm the appearance of heritage assets through appropriate design.
13. The Framework advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning decisions should support the expansion of electronic communications networks, including next generation mobile technology such as 5G, as proposed. Such support is made in the Framework, irrespective of any temporary demands resulting from home working during the pandemic or any changing behaviour, that may or may not endure in the long term.
14. The proposals would upgrade an existing telecommunications site in accordance with the Framework's objectives. Moreover, it advises that Local planning authorities should not question the need for an electronic communications system. As such, whilst there is a history of applications at the site, including an alternative approved scheme, I do not have the full details of these applications. Moreover, I have no reason to doubt that the proposal would lead to an improvement in the communications network.
15. In this regard, the proposal would result in significant public benefits in maintaining and improving vital communications infrastructure. As such, the less than substantial harm that I have identified would be outweighed by the public benefits. Moreover, although there would be a small degree of harm, it would not unacceptably harm the appearance of heritage assets and thus, I find no conflict with Policy D.DH11 of the LP. This warrants taking a decision that would not comply with Policy HC1 of the London Plan (2021) and Policy S.DH3 of the LP.

Other Matters

16. Having regard to my duties under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, there are several listed buildings along Gillender Street, including amongst others, the former fire station building. Although the proposed equipment would be viewed in combination with the listed buildings, the equipment's physical relationship would be with the host building and its resulting appearance in the CA. As such, the works would not, in my view, harm the setting of any nearby listed building.

Conditions

17. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings and to require that the development is carried out in accordance with them, as this provides certainty.

Conclusion

18. Although the proposal would conflict with policies of the development plan, there are other considerations, including significant public benefits and the provisions of the Framework, which outweigh this conflict.
19. As such, and for the reasons given above, the appeal is allowed.

Mr R Walker

INSPECTOR