



Appeal Decision

Site visit made on 19 September 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2023

Appeal Ref: APP/U5360/W/20/3260973

Landmark Heights, 172 Daubeney Road, Homerton, Hackney, London E5 0EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 Hackney.
 - The application Ref 2020/1790, dated 14 June 2020, was refused by notice dated 11 August 2020.
 - The development proposed is telecommunications rooftop installation upgrade and associated works.
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Decision

1. The appeal is allowed and prior 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) (GPDO) for telecommunications rooftop installation upgrade and associated works at Landmark Heights, 172 Daubeney Road, Homerton, Hackney, London E5 0EN in accordance with the terms of the application Ref 2020/1790, dated 14 June 2020, and the plans and drawings submitted with it.

Procedural Matters

2. The address for the appeal property ('Landmark Heights') on the application form and accompanying documents (including the appellant's notice) is listed as 174 Daubeney Road. Whereas on the information before me, this is 172 Daubeney Road. On this basis, the Council argues that the notice requirement has not been correctly undertaken in accordance with paragraph A.3(2)(a)(ii) of Class A, Part 16, Schedule 2, Part 16 of the GPDO. This requires that the address or location of the proposed development be provided on the notice.
3. Notwithstanding the incorrect property number, the name of the building, road and post code were provided on the notice and this is sufficient to identify the address and location of the building. Indeed, the Council determined the application on this basis. Nevertheless, for completeness and the purposes of my Decision, I have included the correct property number for Landmark Heights.
4. There is no dispute between the parties that the proposal satisfies the limits to permitted development set at Paragraph A.1 (2) to Class A, Part 16, Schedule 2 of the GPDO, and I have not been given any clear reason to disagree.
5. The provisions of the GPDO, under 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.

Planning Policy

6. The Council and others have referred to a number of development plan policies from the London Plan and the Hackney Local Plan, and guidance contained within Hackney's Public Realm Strategy. Irrespective, 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 be had to the development plan. I have nevertheless had regard to these development plan policies and guidance, only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

7. Based on the foregoing and the Council's reason for refusal, the main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

Reasons

8. Landmark Heights comprises a 20-storey modern, residential block of flats. Based on my observations this building has undergone a recent external refurbishment and is a good example of this type of modern building.
9. The development surrounding Landmark Heights is predominantly residential in character. Nearby buildings are of varying ages and designs. However, the scale of buildings in the area is much smaller in comparison to Landmark Heights, which is approximately 54m high at the main roof level.
10. Consequently, although the Council has not identified Landmark Heights as being part of any view of strategic or local importance, this building has a strong visual presence and is visible from the surrounding area. This includes nearby Grade II Listed Buildings (Daubeney Primary School approximately 150m to the south, Mandeville Primary School approximately 300m to the north and the locally listed Glyn Arms Public House located about 300m to the north).
11. Landmark Heights is also visible in more distant views from recreational spaces, such as Daubeney Park, the Lee Navigation and Hackney Marshes, which are to the east of it.
12. The roof top of Landmark Heights already accommodates a range of telecommunications apparatus and these are to a lesser or greater extent visible from the surrounding area. The proposal involves an upgrade of existing telecommunications apparatus to facilitate 5G coverage and provide an improved level of service.
13. The more substantial elements of the proposed upgrade are described as 'Apertures.' These are tall, slim and broadly cylinder-shaped antenna, which would be arranged in pairs and located on tripods. The tripods are to be mounted on new raised steel grills with steps, open mesh decking, kickplate and handrail, with an access ladder installed on plinths fixed above to the building.
14. The proposed upgrade includes additional routers and cabinets and other more minor additions including GPS antennas. A number of mainly 300mm transmission dishes are to be relocated onto new support poles.

15. The proposed antennas would be located along three corners of the roof top of Landmark Heights. These would be taller and bulkier than the existing ones and as already stated arranged in pairs. The supporting infrastructure for these would also be more substantial than the simple scaffold poles used to support the existing antenna. Consequently, the proposed telecommunications apparatus would be more apparent in comparison to the that which exists.
16. However, given the substantial height of Landmark Heights, from nearby views at street level and surrounding properties, the roof top of this building and the proposed telecommunications apparatus would not be particularly noticeable.
17. From more distant views, because of the predominantly densely built-up character of the surrounding area and mature landscaping to the east, there are existing features such as buildings, bridges and trees, and these obscure and distract from views of Landmark Heights. These features would also obscure and distract views of the proposal.
18. Where uninterrupted views of Landmark Heights are available, in the context of the significant scale and bulk of this building, the proposed telecommunications apparatus would appear relatively diminutive and not particularly prominent. In addition to this, the proposed telecommunications apparatus would be spread across the roof top and therefore it is unlikely that all of this would be visible from any single viewpoint.
19. For the above reasons, and in particular because Landmark Heights already supports telecommunications apparatus, the level of change, the siting and appearance of the proposal would bring to the appearance and form of this building, individually and in combination with the retained telecommunications apparatus would not be significant.
20. Based on my observations the significance of the nearby listed and locally listed buildings is because of their historic and architectural interest. As already stated, the buildings in the area are of varying ages and designs. Against this context and given that the proposal would not bring any significant change to the appearance and form of Landmark Heights, the changes arising from the proposal would not harm the significance or setting of these heritage assets.
21. Whilst the Council has expressed concerns about the effect of the proposal on the Lea Bridge Conservation Area ('CA'), no specific details have been provided. Nevertheless, based on my knowledge of the CA, and given the considerable separation and intervening development between this and Landmark Heights, the proposed development would not unacceptably affect the setting of this heritage asset.
22. Although the building is prominent and visible from parts of the the aforementioned recreational spaces, for the reasons set out above, the proposal would not unacceptably undermine the quality, character, functioning or enjoyment of these areas. Consequently, the visual effects of the siting and appearance of the proposal are acceptable and would not undermine the overall quality of the public realm.
23. Furthermore, the proposal facilitates the upgrading and sharing of an existing roof top base station. Based on the Framework, this is sequentially preferable to introducing a new and separate telecommunications facility.
24. For the above reasons, the siting and appearance of the proposal would not result in any unacceptable harm to the character and appearance of the area.

25. Accordingly, I find no conflict with the aims of policies from the London Plan and the Hackney Local Plan and guidance contained within Hackney's Public Realm Strategy, which have been referred to me, in so far as these are material to siting and appearance.

Other matters

26. From within the flats at Landmark Heights, the proposed telecommunication apparatus would not be visible. As such, this would not adversely affect the amenity of the occupiers of this building. Based on the information available to me, the appellant has undertaken the necessary consultation on the proposal.
27. I have noted concerns raised by third parties about a range of issues, including potential fire risk, and the risk of arson and vandalism as a consequence of protests against the installation of 5G technology, and that the proposal could prejudice the establishment of a green roof at Landmark Heights. However, in the absence of any strong evidence to support such concerns, these are not substantive reasons for withholding the grant of prior approval.
28. It would be for the appellant to ensure that the structure and roof of Landmark Heights is suitable for the proposal. Indeed, the proposed plans include a note stating that a structural assessment is to be undertaken.
29. Matters relating to the management and maintenance of Landmark Heights are outside the remit of this appeal.
30. The submission includes certification that the proposed equipment and installation would be in full compliance with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionising Radiation on the limitation of exposure of the general public to electromagnetic fields. As such, the proposal poses no unacceptable health and safety risks in this regard.

Conditions

31. Planning permission granted for the proposed development under Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

32. For the reasons given above, I conclude that the appeal should be allowed, and prior approval be granted.

M Aqbal

INSPECTOR