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## Appeal Decision

Site visit made on 22 June 2021

**by Christopher Miell MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> July 2021**

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**Appeal Ref: APP/X5210/W/20/3260194**

**Farjeon House, Hilgrove Road, London NW6 4TL**

- 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 Limited against the decision of the Council of the London Borough of Camden.
  - The application Ref 2020/1374/P, dated 17 March 2020, was refused by notice dated 7 May 2020.
  - The development proposed is Installation of 12 No. antenna apertures, 4 No. 600mm diameter dishes, 7 No. equipment cabinets and supporting steelwork onto rooftop, 1No. cabinet at ground-level, plus ancillary development.
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### 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 12 No. antenna apertures, 4 No. 600mm diameter dishes, 7 No. equipment cabinets and supporting steelwork onto rooftop, 1No. cabinet at ground-level, plus ancillary development at Farjeon House, Hilgrove Road, London NW6 4TL in accordance with the terms of the application Ref: 2020/1374/P, dated 17 March 2020.

### Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO 2015'), 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. As part of the appeal, the appellant has submitted several computer-generated images of the proposed telecommunications apparatus from various local viewpoints. As the submitted documents do not evolve the scheme, and the nature of the concerns of those who would normally have been consulted are clear from consultation on the original set of plans, I do not consider that their interests would be prejudiced if I determine the appeal taking account of these documents. I have had regard to these documents on the basis that they have been submitted for illustrative purposes.

## **Planning Policy**

4. The London Plan 2021 (the 'LP 2021') was published by the Mayor of London on 2 March 2021. The LP 2021 comprises the spatial development strategy for London and forms part of the development plan. The LP 2021 supersedes the London Plan of 2016. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis. The main parties have had an opportunity to address this matter as part of the appeal process.
5. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the Camden Local Plan 2017 (the 'LP'), the LP 2021 and the National Planning Policy Framework (the 'Framework') only in so far as they are a material consideration relevant to matters of siting and appearance.

## **Main Issue**

6. The main issue is the effect of the siting and appearance of the proposed development upon the character and appearance of the area and the setting of Regency Lodge, which is a Grade II listed building.

## **Reasons**

7. It is proposed to install 12 x antenna apertures, 4 x 600mm diameter dishes, 7 x equipment cabinets and supporting steelwork with associated ancillary development on the rooftop of the existing building, known as Farjeon House. In addition, it is proposed to install 1 x cabinet at ground level to the front of the building. The proposed antenna apertures would be sited around the edge of the rooftop and would have an overall height of approximately 4.5m, which would include the antenna and the rooftop mounting.
8. The proposed telecommunications apparatus would be utilised by the mobile operators EE and Three UK and would replace an existing base station at Centre Heights, No 137 Finchley Road, which is approximately 200m north of the appeal site. The appellant states that the existing base station will be lost when the Centre Heights building is redeveloped, and the existing telecommunications apparatus is decommissioned and removed.
9. Farjeon House is a large eight storey flatted block situated on the corner of Hilgrove Road and Finchley Road, near to Swiss Cottage Station. The rooftop of the building is utilised as an existing base station by other mobile operators and the existing telecommunications apparatus is readily visible when viewed from the street due to the location of the building on an open corner junction and the local area's varying topography.
10. Finchley Road is a busy urban thoroughfare and a red route, which provides transport links to the wider area. Within the immediate area, there are a significant number of tall and substantial buildings, which provide a mix of uses including commercial, residential and a cinema. Overall, the local area has a dense urban character.

11. Located immediately opposite the appeal site on the corner of Finchley Road and Adelaide Road is Regency Lodge, which is a six storey Grade II listed building<sup>1</sup> with an underground garage which dates from the interwar period.
12. The building has a courtyard layout with 9 linked blocks built around a centre courtyard which is accessible from Adelaide Road. The development provides shop units on the ground floor along the Finchley Road frontage with residential uses above and throughout the other blocks.
13. Externally, Regency Lodge has a strong horizontal emphasis and features a brown and sandy buff brick exterior with artificial stone bands at window head and cill levels with semi-circular bays at the block ends of the southern part of the building, whilst many casement bays feature curved corners.
14. The listing entry from Historic England explains that "Regency Lodge occupies the trapezoidal site at the south end of the Swiss Cottage triangle, which was redeveloped in the 1930s, with the Odeon Cinema site immediately to the north. Its location near an underground station whose services were expanded in the 1930s sets it within the context of inter-war transport developments and residential preferences for quality, stylish, flatted accommodation close to the centre of the metropolis."
15. It goes on to state "Listed at Grade II as a carefully designed scheme of inter-war flats with a parade of shops and underground garage by the notable early-C20 architect Robert Atkinson. The Moderne style development has a characteristic horizontal emphasis that suggests speed on this arterial route, and it effectively fills the trapezoidal site at the south end of the Swiss Cottage triangle, which was redeveloped in the 1930s. It is well detailed, including bas-relief panels of the building trades, as well as having planning interest and it is comparable with the best of the commercial flats of its date."
16. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and, the more important the asset, the greater the weight should be.
17. Paragraph 194 of the Framework states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
18. The Council argue that the additional cabinets and telecommunications equipment, which would be taller than the existing antennas and positioned on the roof's edge, would constitute 'proliferated clutter' on the rooftop of the host building, which would be highly prominent when viewed from long and short distance viewpoints on Hilgrove Road, Finchley Road and Adelaide Road.
19. Consequently, the Council argue that the additional telecommunications apparatus would harm the setting of Regency Lodge. In particular, they express concern that the proposal would undermine the cleanness of the eaves-line of the host building, which currently mirrors that of Regency Lodge, and, thus enhances the way the two buildings frame Finchley Road.

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<sup>1</sup> Historic England List Entry No: 1413897

20. On my site visit, I observed that the existing rooftop and telecommunications apparatus was readily visible from long and short-range views from a variety of vantage points including from Hilgrove Road, Finchley Road and Adelaide Road.
21. In addition, I observed that there was a significant volume of rooftop installations, such as telecommunications apparatus, air conditioning units and extraction flues, television aerial and satellite dishes, located on the rooftops of many of the other tall buildings within the immediate area. Moreover, there was a large amount of existing street furniture situated in close proximity to the appeal site and Regency House, which included tall lampposts, road traffic signs and several sets of large traffic lights.
22. The prevalence of existing rooftop installations and street furniture contributes to the character and appearance of the area and forms a backdrop to the area's distinctively urban context, which contributes to the setting of Regency House.
23. When viewed from the street and the wider townscape, including from vantage points on Hilgrove Road, Finchley Road and Adelaide Road, I consider that the proposal would successfully assimilate into the existing urban context, which features a backdrop of existing rooftop installations and street furniture. Consequently, I find that the siting and appearance of the proposed development would have an acceptable effect upon the character and appearance of the area.
24. Furthermore, whilst I am cognisant that the number of rooftop installations at the host building would increase, given the spacing between the groups of antenna apertures, and having regard to the substantial massing of Farjeon House, I disagree with the Council's view that the proposed development would undermine the strong horizontal eaves-line of the host building.
25. Given my findings above, I find that the proposal would have a neutral impact upon and thus preserve the setting of Regency House, which is a Grade II listed building.
26. The Council argue that little evidence has been provided by the operator to justify the large number of antennas proposed. However, the appellant explains that the proposed development at the existing rooftop base station at Farjeon House is necessary to avoid a loss of service provision in this part of Swiss Cottage, London. In particular, the proposal would provide a mobile telecommunications radio base station that would deliver replacement infrastructure necessary to maintain 2G, 3G, 4G coverage and capacity in the local area. In addition, the development would provide an opportunity to install additional telecommunications equipment, which would deliver 5G coverage to Swiss Cottage and the surrounding area.
27. To this regard, I am cognisant of paragraph 116 of the Framework, which states that local planning authorities should not question the need for an electronic communications system.
28. Paragraph 113 of the Framework explains that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new

- electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.
29. Similarly, the Camden Planning Guidance: Digital Infrastructure explains that “the Council will aim to keep the numbers of radio and telecommunications masts and the sites for such installations to a minimum consistent with the efficient operation of the network. Existing masts, buildings and other structures should be used unless the need for a new site has been demonstrated to the satisfaction of the Council. Where new sites are required, equipment should be sympathetically designed and appropriately camouflaged where possible.”
30. The proposed development would utilise an existing base station on the rooftop of Farjeon House and provide replacement coverage and network capacity when the existing telecommunications apparatus at Centre Heights is decommissioned. As part of the development, the operators would install equipment capable of providing 5G coverage, which would improve the telecommuting network in the local area. The use of an existing base station on an existing building is consistent with aims of paragraph 113 of the Framework.
31. I am cognisant that the proposed equipment would not be camouflaged. However, I have found that the siting and appearance of the proposed development would have an acceptable impact upon the character and appearance of the area and preserve the setting of Regency House. In addition, I note from the appellant’s statement that the higher frequency 5G antennas are unable to operate effectively if they are shrouded, whilst face mounted antennas would be unsuitable due to the location of existing windows and the position of adjacent buildings, which would act to block coverage.
32. Within the Council’s officer report, whilst it is acknowledged that the rooftop is used as an existing base station, it is noted that “there does not appear to be planning permission for the existing rooftop equipment”. If this were the case, and, the proposed installation was considered to be a new base station, the requirements of paragraph 115(c) of the Framework would be relevant to this case.
33. Paragraph 115 of the Framework states applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include: (c) 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.
34. To this regard, the appellant explains that they have undertaken an exhaustive search of the area, which demonstrates that no more suitable, feasible alternative sites were available and that the appeal site represents the ‘optimum option’ in terms of balancing the technical requirements for the provision of replacement coverage in with the need to minimise the impact of development as far as is practical. As part of this search, over 20 alternative sites were explored by the appellant.

35. The Council contend that the reasoning given by the appellant for discounting alternative sites is 'too vague' and that the submitted evidence fails to provide site-specific information to justify why the alternative locations are not suitable and have been ruled out.
36. Based on the evidence before me, which includes the reasoning set out within the appellant's statement of case, I am satisfied that the appellant has properly explored the possibility of erecting the telecommunications equipment on existing buildings, masts or other structures. Therefore, I am satisfied that the appellant has exhausted all opportunities for the use of existing masts and other structures within the operational area before selecting the appeal property.
37. In conclusion, I have found that the siting and appearance of the proposed development would have an acceptable effect upon the character and appearance of the area. Consequently, and, for the reasons given above, I find that the proposal would have a neutral impact upon and thus preserve the setting of Regency House, which is a Grade II listed building.
38. Accordingly, the proposal would accord with Policies D1 and D2 of the LP, which require development to respects local context and character; and preserve and, where appropriate, enhance the significance of heritage assets in Camden.
39. In addition, the proposal would accord with Policy SI 6 of the LP 2021 which, amongst other things, states that to ensure London's global competitiveness now and in the future, development proposals should support the effective use of rooftops and the public realm (such as street furniture and bins) to accommodate well-designed and suitably located mobile digital infrastructure.
40. Moreover, the proposal would be consistent with the Framework policies which support high quality communications and the conservation and enhancement of the historic environment.

### **Conditions**

41. Any planning permission granted for the development under Article 3(1) and 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**

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

*Christopher Miell*

INSPECTOR