

<b><u>No:</u></b>	<b>BH2021/00799</b>	<b><u>Ward:</u></b>	<b>Central Hove Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Coombe Lea Grand Avenue Hove BN3 2NB</b>		
<b><u>Proposal:</u></b>	<b>Installation of 6no telecommunication antenna apertures across 3no steel support structures, 3no 600mm wide dishes and 8no equipment cabinets all at roof-level, 1no cabinet at ground-level, plus ancillary works.</b>		
<b><u>Officer:</u></b>	Jack Summers, tel: 296744	<b><u>Valid Date:</u></b>	16.03.2021
<b><u>Con Area:</u></b>	The Avenues	<b><u>Expiry Date:</u></b>	11.05.2021
<b><u>Listed Building Grade:</u></b>	N/a	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Waldon Telecom 101 Phoenix House Pyford Rd West Byfleet KT14 6RA		
<b><u>Applicant:</u></b>	MNBL Ltd Thames Tower Reading		

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

**Conditions:**

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	1586596_BAH164_79 854_NA_M002	B	4 March 2021
Proposed Drawing	1586596_BAH164_79 854_NA_M002	B	4 March 2021
Proposed Drawing	1586596_BAH164_79 854_NA_M002	B	4 March 2021
Proposed Drawing	1586596_BAH164_79 854_NA_M002	B	4 March 2021
Proposed Drawing	1586596_BAH164_79 854_NA_M002	B	4 March 2021
Proposed Drawing	1586596_BAH164_79 854_NA_M002	B	4 March 2021

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. The development hereby permitted shall be removed from the building on which it is situated, and the building restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer, as soon as reasonably practicable after it is no longer required for electronic communications purposes

**Reason:** To reduce the risk of harm to the visual amenity of the host building and wider environment caused by a proliferation of unrequired telecommunications equipment cluttering the roofscape of the host building, and to comply with policies QD23, QD24, HE3, HE6 and HE10 of the Brighton and Hove Local Plan; and CP12 and CP15 of the City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The application site is a large block of flats on the west side of Grand Avenue within The Avenues conservation area.
- 2.2. Planning permission is sought to install telecommunications equipment at the site, primarily upon the rooftop, but also with one cabinet at ground floor level.

## **3. STATEMENT OF SIGNIFICANCE**

- 3.1. This property is in The Avenues Conservation Area. It is one of a number of mid-20th century purpose-built multi-storey blocks of flats, built on plots formerly occupied by grand detached houses along the West side of Grand Avenue.
- 3.2. In close proximity are a number of listed buildings; to the north west of the site is grade II listed Kings Mews which fronts Third Avenue, and to the east and north east is a cluster of grade II listed detached houses (largely converted to flats) with the listed war memorial positioned at the centre of Grand Avenue. The locally listed Grand Avenue Mansions is immediately adjacent to the north.
- 3.3. The property is therefore not itself of heritage interest, however it is within a sensitive setting.

## **4. RELEVANT HISTORY**

None

## **5. CONSULTATIONS**

### **5.1. Heritage**

This application concerns the placing of telecommunication antenna on the roof of this building. It is proposed to place two clusters on the western perimeter of the roof and one on the eastern perimeter. Currently there is some satellite equipment on the roof.

- 5.2. The information submitted with this application states that the antenna need to be sited at the edge of the rooftop for a clear signal avoiding interference from surrounding structures, and that the proposed equipment is the minimum amount and scale to meet structural and radio planning requirements.
- 5.3. Details of alternative locations that have been considered for the equipment have been submitted along with justification for the choice of Coombe Lea for their siting.
- 5.4. The antennae will be visible as part of the skyline from viewpoints in Third Avenue and Grand Avenue and will have an impact on the character of The Avenues Conservation Area. They also have the potential to affect the setting of the listed and locally listed heritage assts, as well as the character of The Avenues Conservation Area.
- 5.5. The height and scale of the host property is such that its existing impact on the setting of these heritage assets is already significant. The addition of antennae at roof level is therefore considered to cause less than substantial harm.
- 5.6. Under the terms of the NPPF the public benefits that would result from the installation of these antennae should be taken into account in the determination of this application. The Heritage Team advises that these benefits will need to be of a magnitude that would outweigh this identified harm.
- ### **5.7. UK Power Networks**
- No Objection

## **6. REPRESENTATIONS**

- 6.1. 168 letters have been received, from a total of 150 individuals across 138 households. Of those objecting to the scheme, 21 have either failed to provide an address, or given an address that is outside of the boundaries of the Brighton and Hove Local Planning Authority. Of the remaining 117 addresses, only 76 are considered likely to be materially impacted upon by the proposed development.
- 6.2. The objections to the proposal are on the following grounds:
- Lack of what is considered to be sufficient consultation with occupants/freeholders
  - The freehold company has not given permission for the equipment to be installed

- Residents of Coombe Lea have not asked for the equipment
- Detrimental impact on property value
- Lack of information regarding liability, insurance, and damage compensation
- Health concerns regarding 5G technology
- Lack of Health and Safety Impact Report
- Lack of Environmental Health Assessment
- Lack of Risk Assessment
- The development would lead to security issues and crime including murders
- Disruption caused by the building works and maintenance
- Lack of Surveyor's Report and Building Impact Assessment
- The additional weight of the equipment will cause Coombe Lea to collapse
- The proposed development will cause damage to no.15 Grand Avenue
- The cabinets will emit a hum that will interfere with specialist electronic equipment in nearby homes
- The equipment will interfere with televisions, radios and lighting within Coombe Lea
- The equipment will lead to power surges that will disrupt electricity within Coombe Lea
- Detrimental visual impact to the host building
- Detrimental to the significance of The Avenues conservation area
- There is no similar development in The Avenues conservation area
- Detrimental to the setting of listed buildings in the vicinity
- The development will impact on the ability to install solar panels or a green roof on the building
- Loss of garden space from the single ground-level cabinet
- There are other telecoms stations present in the local area
- The proposal would represent a change of use class.
- The proposal will contribute to climate change
- Loss of habitat for seagulls
- The proposed development includes Huawei equipment that is banned in the United Kingdom
- Accepting that more masts are required for 5G rollout but should not be at this property
- The antennas should instead be placed on Hove Town Hall
- The equipment should be moved elsewhere; coverage of the beach is not important as tourists have no interest in or need for a 5G network.
- The proposed masts will cause overshadowing
- The objector is not allowed to change their windows without permission, but a mast can be erected without consent.
- Planning permission has been refused for telecoms equipment in other locations
- Noise nuisance
- The proposed development is for financial gain only and is 'fascist'
- The proposed development is a 'blatant abuse of human rights'

6.3. Also, a petition has been received with sixty signatories, objecting to the proposal on the following grounds:

- The objectors do not like the way they were approached by the applicant

- Health concerns regarding 5G technology
  - Telecoms equipment should be sited on non-residential buildings
  - Detrimental impact on The Avenues conservation area
  - Visual impact on residents at Grand Avenue Mansions
  - 'Invasion' by maintenance personnel
  - More telecoms equipment will be installed in the future
- 6.4. Five letters have been received, from a total of four individuals, supporting the application on the following grounds:
- The proposed development will provide communications infrastructure benefits
  - The height of the development reduces its visual impact
  - It has been proven that 5G technology is safe
  - The level of objection to the scheme on health grounds is disappointing

## 7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour JAAP (adopted October 2019);
- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 8. RELEVANT POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
CP10	Biodiversity
CP12	Urban design
CP15	Heritage

#### Brighton & Hove Local Plan (BHLP) (retained policies March 2016)

TR7	Safe development
QD5	Design - street frontages

QD23	Telecommunications apparatus (general)
QD24	Telecommunications apparatus affecting important areas
QD27	Protection of amenity
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE10	Buildings of local interest

Brighton & Hove City Plan Part Two (CPP2)

Policies in the Proposed Submission City Plan Part Two do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23rd April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM20	Protection of Amenity
DM25	Communications Infrastructure
DM26	Conservation Areas
DM28	Locally Listed Heritage Assets
DM29	The Setting of Heritage Assets

**9. CONSIDERATIONS & ASSESSMENT**

9.1. The main considerations in the determination of this application relate to the design and appearance of the proposed development and the potential impacts on the amenities of local residents, and on the significance of heritage assets in the vicinity.

Design and Appearance

9.2. The proposed works include three masts (each siting two antennas apiece) at rooftop level. One is sited just off-centre on the principle elevation; the other two are sited upon the northwest and southwest corners. Cabinetry and other associated development is sited centrally, adjacent to the front-facing mast. A single cabinet is also proposed at ground floor level next to the southeast corner of the building.

9.3. The proposed works at rooftop level would cause a degree of harm to the appearance of the host building but this is mitigated somewhat by the extreme height the development would be sited at, which would remove it from casual observance. It should also be noted that from Grand Avenue, the only highly visible addition would be a single mast. From Third Avenue, the development would appear simply as a slightly harmful addition to a substantial, bulky backdrop provided by Coombe Lea itself; it is not considered that the proposed roofworks would causes harm significant enough to warrant refusal in terms of general appearance.

9.4. It is also asserted that the proposed ground floor level cabinet would cause harm through loss of garden space. The proposed cabinet has a footprint of under 1m<sup>2</sup>

and it is considered that any harm to visual amenity or biodiversity it may cause would be insignificant and would not justify withholding planning permission.

#### Impact on Heritage Assets

- 9.5. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Moreover, when considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.6. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation should be given "considerable importance and weight".
- 9.7. The development, in particular the masts, would be highly visible from the public realm. The front-facing mast would be visible from Grand Avenue, whilst the rear-facing masts would be visible from Third Avenue and a section of Church Road. Coombe Lea is already a dominant and bulky addition to the built environment, of limited historic importance, and it is considered that the proposed development would cause less than substantial harm to the significance of heritage assets in the vicinity.
- 9.8. Paragraph 196 of the NPPF states:  
*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...*
- 9.9. The public benefits of providing a robust 5G telecommunications network are substantial and considered to outweigh the harm to the significance of heritage assets in this instance. A planning condition will also be attached securing the removal of all equipment after such a time it is no longer required for its given purpose of providing a telecommunications network.

#### Impact on Amenity

- 9.10. Concerns have been raised asserting that the audio output of the proposal could cause a noise nuisance. It has not been observed that similar structures emit any significant noise output, however, if the scheme is found to be acceptable in all other regards, the Council would be able to investigate noise complaints under the Environmental Protection Act 1990, therefore prior approval need not be refused on this basis.
- 9.11. It has been asserted that the masts will cause overshadowing; considering the siting of the masts, atop an eleven-storey block of flats, it is not considered that any additional overshadowing would be significant, and is not considered reasonable grounds for objection in this instance.

- 9.12. Other representations have stated that the masts would be highly visible from neighbouring properties. This is likely, however being visible does not equate to causing harm, and it is not considered that the proposed development causes significant harm in this regard.

#### Equalities

- 9.13. None identified

#### Private or Civil Matters

- 9.14. Large number of objections regard the consultation process undertaken by the applicant to local residents and that it is considered inadequate. This is a private matter between the applicant and the residents and has no bearing on this assessment. Likewise, whether or not permission has been granted by the freeholder of the land to install the equipment is not a material planning consideration; it may impact on whether the equipment can lawfully be installed in the future, but is a private matter between the freeholder and the applicant and not a reasonable ground to withhold planning permission.
- 9.15. Planning Practice Guidance states that the Courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property is not a material consideration.
- 9.16. One or more letters of objection have objected due to lack of information regarding liability, insurance, and damage compensation. In the event the development takes place, this would be a private matter between the developer and residents and is not a planning matter, therefore it need be given no weight in this assessment.
- 9.17. Concerns have been raised regarding disturbance caused by the building works themselves, including (but not necessarily limited to) vehicle congestion; wear and tear to communal hallways from workmen walking along them; and security risks from the workmen themselves who may commit crimes up to and including theft from and murder of residents. A degree of disruption is inherent in all development and not reason to refuse planning permission; the most extreme potential impacts cited are considered speculative and not reasonable grounds to object to development. This applies both to the initial installation works, and any future visits by workmen who may need to carry out maintenance work on the equipment.
- 9.18. It has been explained to the Local Planning Authority that the range of 5G transmitters is shorter than that of 4G or similar, therefore additional transmitters are necessary to cover the entire city. For this reason, the presence of one or more telecoms masts in the area does not make additional transmitters unacceptable in principle.

#### Impact on Health

- 9.19. Large numbers of objections relate to the potential impact of 5G equipment on the health and wellbeing of local residents and visitors to the site, as well as local wildlife. The Government has through the revised National Planning Policy

Framework (2019) established a clear expectation that planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G).

- 9.20. As such, Local Planning Authorities should not impose a ban on new equipment nor should they seek to prevent competition between different operators, question the need for an electronic communications system or set health safeguards different from the International Commission guidelines for public exposure.
- 9.21. A declaration that the proposal would be compliant with International Commission on Non-Ionising Radiation (ICNIRP) Public Exposure Guidelines has been submitted to support the application. It is not considered necessary to request further confirmation of the safety of the equipment as demanded by residents, since compliance with ICNIRP Public Exposure Guidelines is guaranteed through alternative regimes.

#### Building Safety

- 9.22. Concerns have been raised that the weight of the rooftop equipment will cause Coombe Lea to collapse; will cause damage to other nearby buildings; and will cause power surges throughout Coombe Lea. Such issues relate to building safety which are a matter for Building Regulations, and need be given no weight in this assessment for planning permission.
- 9.23. Further concerns state that the telecoms equipment will disrupt 'specialist electronic equipment', televisions, radios, and lighting within the building. Telecommunications equipment is commonplace within the city and is designed to work in a manner which avoids such disruption; regardless, this is not a material planning consideration.

#### Biodiversity

- 9.24. Concerns have been raised that the proposal would lead to a loss of habitat for herring gulls and other local birds. Notwithstanding reasons raised that relate to alleged harm from radiation (which has been addressed earlier in this report), it is not considered that the development would make the rooftop untenable as a habitat for nesting birds since the rooftop has a total area of over 600m<sup>2</sup> and only a fraction of this is being developed upon.

#### Other Considerations

- 9.25. One or more letters of objection state that the proposed development would amount to a change of use class. This view is not shared by the Local Planning Authority as the building would clearly remain in residential use and the proposed equipment would be ancillary to such a use.
- 9.26. One letter of objection considers it 'not fair' that they need planning permission for changes to their windows, but a 'mast' can be erected without any form of consent. There appears to be some fundamental misunderstanding as the objector is making a representation relating to an application for planning permission which the applicant has been required to apply for, so clearly a form of consent is required. Regardless, whether certain forms of development

require express planning permission is set by the Government and is not reasonable grounds to object to planning permission.

- 9.27. It is noted that one or more of the equipment cabinets are referred to as 'Huawei' cabinets. Following the decision by the Government to ban the use of Huawei equipment from 5G networks, the operators will need to review the manufacture of equipment for the installation. However, only the equipment cabinet forms part of the application, not the equipment within it, and therefore it is considered the reference to Huawei is not material to this assessment.
- 9.28. Concern has been raised by local residents that were the proposed equipment installed it would infringe upon the potential development of the flat roof as a space to install solar panels or a green roof. This is noted, but only limited weight can be given to this consideration as there is no evidence to suggest that such development is likely to be undertaken in the near future. It is also noted that, as abovementioned, only a fraction of the rooftop is being developed upon, and why solar panels or areas of green roof would not be possible in conjunction with the proposed development is not clarified.
- 9.29. Significant objection has been raised at the choice of Coombe Lea for the proposed development. Many objectors have suggested alternative sites, such as Hove Town Hall, or stated that it should instead be put on high ground at the very top of Dyke Road. Sites for telecommunications stations are chosen on the basis of the coverage the equipment would provide; in order to achieve this, it is sensible to site them on the tallest buildings in the vicinity as the antennas would not have their signal blocked by intervening buildings. Hove Town Hall, whilst a large building, is not significantly taller than most of the buildings surrounding it and much of the signals would be blocked. Dyke Road is several miles from the application site and antennas located there (of which several already exist) do not provide coverage to Central Hove.
- 9.30. It has also been asserted that the equipment could be sited on a building further north even if it resulted in the seafront not receiving coverage, for the reason that it's mainly tourists who visit the seafront and they don't have any interest in, or need for a 5G network. This is baseless speculation and need not be considered any further.
- 9.31. It has also been raised that development elsewhere for telecommunications equipment has been refused planning permission on the grounds of harm to heritage assets. This is noted; however, it is a well-established principle of the planning system that each application is assessed on its own merits, and these other applications were subject to a different context than the current proposal and limited weight can be given to these decisions. It is also inferred that if permission is granted, then additional equipment will be installed in the future. The objector does not clarify if they mean at this site or elsewhere; each development is assessed on its own merits and would be subject to planning permission, therefore theoretical future applications, or the claim that a harmful precedent may be set, should not be used as reason to withhold planning permission.

### Conclusion

- 9.32. The proposed rooftop-level works are considered to cause less than substantial harm to the visual amenity of the area which includes The Avenues conservation area and multiple listed and locally listed buildings. This harm has been measured against the public benefits which include the expansion of a robust 5G telecommunications network, which is considered to be significant. The impacts on the amenities of local residents in terms of overshadowing or visual harm are considered to be acceptable.
- 9.33. A significant number of objections have been received, however it has been demonstrated that many of these are from residents who cannot reasonably be considered to be impacted upon by the development; in addition, many of the issues raised are non-planning issues and therefore can be given no weight in the planning balance. Confirmation that the development would operate in compliance with ICNIRP Public Exposure Guidelines has been given and the Council cannot reasonably object on grounds of the alleged impact on health; such an objection would be vulnerable to legal challenge.
- 9.34. For these reasons the proposal is considered to be in accordance with policies TR7, QD5 and QD27 of the Brighton and Hove Local Plan; CP12 of the City Plan Part One; and DM20 and DM25 of the City Plan Part Two.

