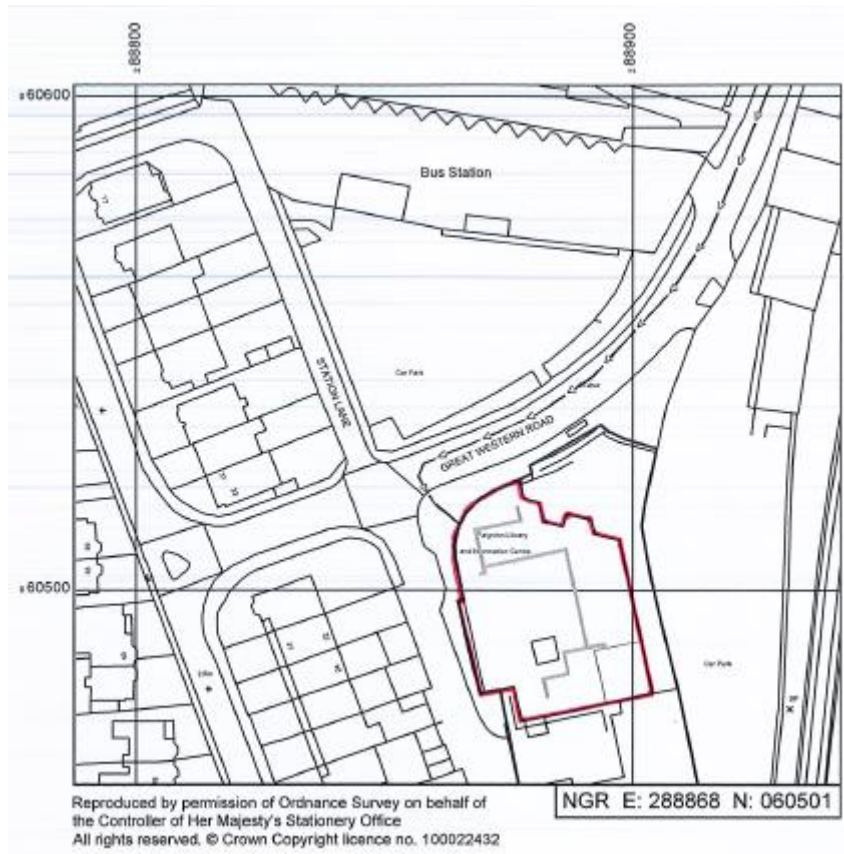




Application Site Address	Paignton Library And Information Centre Great Western Road Paignton TQ4 5AG
Proposal	Installation of 6 antennas, 4 dishes, 9 cabinets to roof & additional cabinet at ground level with ancillary works.
Application Number	P/2019/1218
Applicant	MBNL (EE (UK) Ltd And H3G (UK) Ltd)
Agent	Mr Chris Andrews – Waldon Telecom Ltd
Date Application Valid	19/11/2019
Decision Due date	14/01/2020
Extension of Time Date	13/03/2020
Recommendation	That planning permission is granted, subject to the conditions detailed below.
Reason for Referral to Planning Committee	The proposal is on land registered as a Torbay Council asset and an objection has been received.
Planning Case Officer	Emily Elliott

Location Plan:



Site Details

The site is Paignton Library and Information Centre. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan. The site is within 15 metres of, but lies outside, the Old Paignton Conservation Area.

Description of Development

This planning application proposes the installation of new telecommunications equipment (as a replacement for an existing installation which needs to be removed following the Council serving a notice to quit their existing site on the rooftop of Victoria Car Park, Garfield Road, Paignton to allow its redevelopment). The proposed installation would consist of 6 antennas, 4 dishes, 9 cabinets to roof and additional cabinet at ground level with ancillary works.

Pre-Application Enquiry

None sought.

Relevant Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Paignton Neighbourhood Plan 2012-2030

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

Relevant Planning History

No previous relevant planning history relating to the site.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. 2 letters of objection have been received.

A summary of the concerns raised in objection include:

- Residential amenity
- Impact on local area
- Visual impact
- Devaluation of property – **This is not a 'material consideration'**
-

Summary of Consultation Responses

Torbay Council Drainage Engineer:

No objections.

Torbay Council Senior Environmental Health Officer:

No objections.

Torbay Council Highways Engineer:

No objections.

Police Designing Out Crime Officer:

No objections.

South West Water:

No objections.

Paignton Neighbourhood Forum:

No response received.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Residential Amenity
4. Flood Risk and Drainage

1. Principle of Development

Policy IF1 of the Local Plan supports, the introduction/installation of the most up to date, fastest telecom and other Information and Communications Technology (ICT).

Paragraph 112 of the NPPF states that 'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being', and that 'planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G)'.

The requirement for the site is proposed is explained in the supporting information: EE and H3G have been served with a notice to quit their existing site on the rooftop of Victoria Car Park, Garfield Road, Paignton.

The library does not currently have any telecommunications installation.

There is a legal requirement upon both operators to secure a replacement site to provide continued coverage. Alternative sites investigated and the justification for not proposing the alternative sites is stated in the submitted information. The proposed development would provide both continued connectivity and network enhancement to coverage of the surrounding area. As the proposal is a replacement, it is imperative that it is integrated into the network as soon as possible to avoid network disruption and loss of services to customers. The proposal would provide 2G, 3G and 4G coverage for EE and 3G and 4G for H3G. The proposed site has also been designed to provide 5G coverage for both operators.

The proposed development is considered acceptable in principle.

2. Impact on Visual Character

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy PNP1(c) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials.

Objectors have raised concerns with regards to the visual impact of the proposal, and the potential impact the proposal will have on the local area. Given concerns with regard to the visual prominence, both on the building and the wider street scene, officers have provided the agent with recommendation for an alternative layout for the rooftop elements which would effectively minimise the visual impact of the scheme. The agent has yet to provide a considered response and advises that a further survey of the rooftop is underway to assess the recommended repositioning.

Accordingly, a planning condition is proposed which will require that (notwithstanding the submitted plans) the equipment and cabinets shall be sited in accordance with officers' recommendations. It is considered that subject to this requirement, given the intended siting, scale, and design, that the installation would not be likely to result in unacceptable harm to the character or visual amenities of the locality.

Policy IF1 of the Local Plan states that a planning condition will be employed with a planning consent to ensure that any telecommunication apparatus and associated structures that subsequently become redundant will be permanently removed from the site. The proposed development is therefore considered to be in accordance with the NPPF, Policy DE1 of the Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan.

3. Impact on Living Conditions

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

The application is supported by an ICNIRP (The International Commission of Non-ionizing Radiation Protection) certificate. National Planning guidance advises that: - *'Local planning authorities must determine applications on planning grounds only. They should not 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.'*

The proposed development would be sited on the rooftop of Paignton Library and Information Centre. Objectors have raised concerns regarding residential amenity. Bearing in mind officers' recommendations for repositioning, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours, in terms of their outlook, privacy, access to light, or in terms of disturbance.

The proposal is therefore considered to accord with Policy DE3 of the Local Plan.

4. Flood Risk and Drainage

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy PNP1(i) of the Paignton Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy.

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment. The Council's Drainage Engineer raises no objections to the proposed development. As the proposed development would not result in an increase of impermeable footprint of over 20 square metres, it is not considered necessary to consider any condition to control surface water disposal.

Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice, and the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan and Policy PNP1(i) of the Paignton Neighbourhood Plan.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposed development would result in the replacement of a telecommunications site to provide continued coverage, favoured by the NPPF and the Development Plan.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8 of the Act. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

S106: Not applicable.

CIL: The CIL liability for this development is Nil.

EIA/HRA

ERA: Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

HRA: Not applicable.

Planning Balance

The proposed development is for the installation of 6 antennas, 4 dishes, 9 cabinets to roof and additional cabinet at ground level with ancillary works. The proposal will be a replacement for existing telecommunications infrastructure and is intended to facilitate continued and improved 2G, 3G, 4G and 5G coverage. Subject to the planning condition detailed below, no unacceptable material planning harm has been identified and the proposal is in accordance with Development Plan policies.

Conclusions and Reasons for Decision

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area or local amenity; would provide acceptable arrangement in relation to flood risk. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, and all other material considerations.

Officer Recommendation

That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

Conditions

Removal of Redundant Equipment

Any of the approved telecommunications equipment which becomes redundant and ceases to be used for a period in excess of six months shall be permanently removed within a further period of three months.

Reason: In the interests of visual amenity, in accordance with Policies DE1 and IF1 of the Torbay Local Plan, and Policy PNP1(C) of the Paignton Neighbourhood Plan.

Plans

Notwithstanding the submitted plans (drawing references '215 A(roof)' and '265 A' received 14th November 2019), the development hereby approved shall not be commenced until revised layout and elevation drawings have been submitted to and approved in writing by the Local Planning Authority. The development shall be installed in accordance with such approved details and retained as such thereafter for the life of the development.

Reason: In the interests of visual amenity, in accordance with Policy DE1 of the Torbay

Local Plan, and Policy PNP1(C) of the Paignton Neighbourhood Plan.

Relevant Policies

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

IF1 - Information and Communications Technology

PNP1(c) – Design Principles

PNP1(i) – Surface Water