
Appeal Decision

Site visit made on 30 August 2016

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 October 2016

Appeal Ref: APP/K5600/W/16/3150290

Highlever, 69 St Quintin Avenue, London W10 6NZ

- 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 Vodafone Limited against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application, Ref. PP/15/07753, dated 4 December 2015, was refused by notice dated 9 March 2016.
 - The development proposed is the installation of 12 no. antennas; 12 no. remote radio units; 2 no. 300mm transmission dishes on pole mount supports fixed to rooftop plant room wall; 3 no. equipment cabinets, and 1 no. metre pillar at ground floor level together with associated ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of 12 no. antennas; 12 no. remote radio units; 2 no. 300mm transmission dishes on pole mount supports fixed to rooftop plant room wall; 3 no. equipment cabinets, and 1 no. metre pillar at ground floor level together with associated ancillary works at Highlever, 69 St Quintin Avenue, London W10 6NZ in accordance with the terms of the application, Ref. PP/15/07753, dated 4 December 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision;
 - 2) The development shall be carried out in complete accordance with the details on the following approved plans including annotations thereon: Drawing numbers Nos. 100 Rev. B; 101 Rev. A; 200 Rev. C; 201 Rev. E; 202 Rev. D; 300 Rev. B; 301 Rev. D; 302 Rev. C; 400 Rev. B;
 - 3) The equipment attached to the plant room shall be painted in a colour matching its external surface;
 - 4) The equipment hereby approved shall be removed as soon as reasonably practicable when it is no longer needed for telecommunication purposes.

Procedural Matter

2. Some of the submitted plans were amended during the appeal process. The Council takes the view that there should be another application to enable public consultation on the amendments. However, I have made my Decision on the amended plans as I do not consider the changes made to be substantial enough
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to prejudice the interests of nearby occupiers and other local residents. In coming to this view I have noted that there was a single objection as a result of public consultation and as indicated in paragraph 15 below I have given weight to the views expressed.

Main Issue

3. The main issue is the effect of the installation of the equipment on the appearance of the building and whether this effect would preserve or enhance the character or appearance of the Oxford Gardens Conservation Area.

Reasons

4. The rooftop of Highlever currently has a plant room of substantial size, which extends to a height of 3.5m above the main roofline. In my view the combination of its scale, bulk and colour (the latter in marked contrast to the exterior of the building) is such that when seen it is almost certainly perceived by most observers as a negative feature of both the appearance of the building itself and the character and appearance of the surroundings, in this case a conservation area.
5. As is usual with the rooftops of tall buildings in highly urbanised areas that have other buildings of a similar height nearby, the prominence of the plant room is proportionately greater when seen at some distance in any aspects that may be available through gaps in the existing townscape. In particular I saw on my visit that the plant room is especially noticeable in south easterly views from St Quintin Gardens, but rather less so from the steeper angled views in the more immediate context of St Quintin Avenue and Highlever Road. However, in both cases nearby mature trees when in leaf help to screen the plant room, as evidenced from the difference between the views on my visit in August and those on the appellant's submitted photographs taken in the winter of 2015.
6. The appeal scheme has been put forward following the site selection procedure required in the National Planning Policy Framework 2012 ('the Framework') and the industry's Code of Practice. It is for the establishment of a new rooftop base station to be shared by Vodafone and Telefonica, and following the withdrawal of a previous proposal it essentially involves attaching antenna to the exterior of the plant room, albeit with the use of offset brackets to facilitate effective signal delivery.
7. Contrary to my assessment in paragraph 4 above, the Council considers that the plant room does not at present appear incongruous or unduly prominent in relation to the host building and that it sits 'relatively quietly' adjacent to a nearby chimney of a similar height. It is further considered that the added bulk and volume to the outside would result in the loss of the cube shape and that the added equipment would appear as clutter.
8. I have mixed views on the Council's assessment of the effect of the proposal on the appearance of the plant room. As will be clear from paragraph 4, I consider the structure is already obtrusive to the extent that it does not, as the Council claims, sit 'quietly' on the roof – its size and unremittingly utilitarian appearance prevent that. On the other hand, I agree with the Council that the appeal scheme would add clutter; this is inevitable given the size and number of antenna that would project from the currently 'clean lines' of the structure.

Furthermore, given the prominence of the plant room, the addition of the equipment would not be discreetly sited as required under the Council's policies in the Royal Borough of Kensington and Chelsea Consolidated Local Plan 2015 ('the Local Plan') and the draft St Quintin and Woodlands Neighbourhood Plan Policy 2h.

9. However, that said, I do not consider that the proposed alterations would materially increase the existing incongruity and obtrusive nature of the plant room. Because the antenna would be seen against the existing walls of the plant room rather than increase its height I take the view firstly that its altered appearance would be unlikely to increase the extent to which it currently 'draws the eye' of a resident or passer by, and secondly even if it did, the existing perception of visual harm would not be significantly heightened. Notwithstanding the various other matters referred to by the Council and appellant in their submissions, this is the nub of the dispute between the parties and boils down to simply a matter of a different planning judgement.
10. In exercising the balance of planning considerations I conclude that whilst an element of harm would arise because of the additional clutter and indiscreet siting, this would not be significant. However, because at least some harm would arise I must conclude on the main issue that there would be an adverse effect on the appearance of Highlever and a corresponding failure to preserve the appearance (but not necessarily the character) of the conservation area. The consequence of that conclusion would be a conflict with Local Plan Policies CL1, CL2, CL3, CL8, CL11 and CR4.
11. Although I have come to this conclusion it can only be interim finding, as there is a further assessment to be made against Government policy in the Framework as regards (i) telecommunications equipment and (ii) the effect of a development proposal on heritage assets.
12. Paragraph 42 of the Framework says that the development of high speed broadband technology and other communications networks play a vital role in enhancing the provision of local community facilities and services. Paragraph 43 says that in preparing Local Plans, Local Planning Authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband, and advises that the numbers of radio and telecommunications masts and the sites for such installations should be kept to a minimum consistent with the efficient operation of the network. In my view the evidence indicates that the appeal proposal is consistent with these policies and their objectives. I am therefore satisfied that it represents a 'public benefit' as referred to in Section 12 of the Framework 'Conserving and enhancing the historic environment'.
13. Where there are such benefits, paragraph 134 of the Framework requires them to be weighed against the harm caused to the significance of designated heritage assets, in this case the conservation area, provided that the harm caused is 'less than substantial'. Although in the paragraphs above I have concluded that there would be some harm caused, I have also explained that the proposal would in this case clearly fall within this description.
14. These factors qualify my interim conclusion in paragraph 10 that the appeal scheme would be in conflict with the development plan, and lead me to an

overall finding that the appeal should be allowed, as the 'less than substantial' harm caused would be outweighed by the other considerations set out in current Government policy.

15. A letter of objection has been received from a resident of Highlever. However, I have formed a different opinion as to the extent of harm to the 'aesthetic appeal of the building'. On the other matters raised, the planning officer's report has made some observations and I am in agreement with that part of the Council's consideration.
16. In allowing the appeal I shall impose conditions on the lines suggested by the Council. A condition requiring compliance with the approved plans is needed for the avoidance of doubt and in the interests of proper planning. A condition requiring removal of the equipment if and when redundant will avoid the accumulation of unnecessary clutter, whilst a condition relating to a matching colour will help to safeguard visual amenity.

Martin Andrews

INSPECTOR