
Appeal Decisions

Site visit made on 12 June 2017

by Peter Rose BA MRTPI DMS MCMI

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

Decision date: 30th June 2017

Appeal A Ref: APP/X5990/Y/17/3170311
London School of Economics, 32L Lincoln's Inn Fields,
Holborn, London WC2A 3LY

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Cornerstone Telecommunications Infrastructure Limited (CTIL) and Vodafone Limited against the decision of the City of Westminster Council.
 - The application Ref: 16/06307/LBC, dated 30 June 2016, was refused by notice dated 26 August 2016.
 - The works proposed are the installation of 6no. face mounted antennas, 12no. remote radio units (RRU's) with the addition of 3no. cabinets within the existing enclosure and 2no. dishes with ancillary development thereto.
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Appeal B Ref: APP/X5990/W/17/3170310
London School of Economics, 32L Lincoln's Inn Fields,
Holborn, London WC2A 3LY

- 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 Cornerstone Telecommunications Infrastructure Limited (CTIL) and Vodafone Limited against the decision of the City of Westminster Council.
 - The application Ref: 16/06306/FULL, dated 30 June 2016, was refused by notice dated 26 August 2016.
 - The development proposed is the installation of 6no. face mounted antennas, 12no. remote radio units (RRU's) with the addition of 3no. cabinets within the existing enclosure and 2no. dishes with ancillary development thereto.
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Decisions

1. **Appeal A** and **Appeal B** are each dismissed.

Application for costs

2. An application for costs was made by Cornerstone Telecommunications Infrastructure Limited (CTIL) and Vodafone Limited against the City of Westminster Council. This application is the subject of a separate Decision.

Procedural matters

3. The appellants' Written Statement dated 24 February 2017 clarifies at paragraph 4.2 the description of the development as it relates to details of the face-mounted antennas and requests for the appeal be determined on that basis. I do not find such clarification to involve any material change to the proposal and consider the appeal on those terms.
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4. The Council has also advised in its statement dated 16 May 2017 that, post-decision, the authority adopted on 9 November 2016 a consolidated version of Westminster's City Plan: Strategic Policies Adopted November 2013 (the City Plan), but that there is no change in either policy numbering or content in relation to the matters referred to in its reasons for refusal.

Main issues

5. No 32 Lincoln's Inn Fields, and referred to in the List Entry Summary as Her Majesty's Land Registry Building, is a Grade II listed building. The building is located within the Strand Conservation Area, and is adjacent to a Grade II* listed building occupied by the Royal College of Surgeons at No 39-43.
6. The main issues to be considered for both appeals are:
 - (a) the effect of the proposed works upon the special architectural or historic interest of the listed building at No 32 and, in particular, whether the scheme would preserve the listed building or its setting or any features of special architectural or historic interest which it possesses;
 - (b) the effect of the proposed works upon the listed building at No 39-43, but with particular regard as to whether the scheme would preserve its setting, and;
 - (c) the effect of the proposed scheme upon the character and appearance of the Strand Conservation Area and, in particular, whether the scheme would preserve or enhance its character or appearance.
7. I note that the Council's objection relates only to that part of the scheme comprising four antennas proposed for the southern enclosure to the rear of the building facing Portugal Street. Various other elements of the scheme are indicated as being acceptable to the authority, but subject to further details of proposed works in relation to the north-west corner of the roof.

Reasons

Listed building at No 32

8. The appeal site comprises a distinguished early twentieth century former government office building, now occupied by the London School of Economics. It displays a wealth of architectural and historic features, including red brick facades, projecting bays, and other detailing. The List Entry Description also makes specific mention of the building's roof as of a 'neo-Jacobean style with shaped gables and French-style corner turrets with steep slate roofs and lanterns'.
9. The adjacent Royal College of Surgeons' building at No 39-43 originally dates from the nineteenth century, is of a largely brick and stone design, and also displays a range of notable architectural features and detailing. No 32 and No 39-43 face towards the resplendent setting of Lincoln's Inn Fields immediately to the north-west, which is registered as Grade II within the Register of Historic Parks and Gardens pursuant to the Historic Buildings and Ancient Monuments Act 1953.
10. To the rear, both buildings have exposed settings and similarly present impressive townscapes in views from surrounding roads and other premises.

Whilst the roofscape of the rear of No 32 does already include some service and other equipment, the rear elevation, whilst secondary, still contributes to the significance of this asset. It displays a high quality façade broadly consistent with, and complementary to, the historic form and overall design of the building.

11. The application proposes a package of related telecommunications equipment to be installed at roof level, including antennas, remote radio units and associated facilities.
12. The four antennas disputed by the Council would be located to the rear on the southern part of the roof. They would be positioned in two pairs, set back from the building's edge by some 4m and 5.2m respectively. Each pair would be located on free-standing support frames, and overall dimensions of each would be some 1.4m and 1.6m.
13. Notwithstanding the appellants' assertions that the antennas would be of the lowest possible height and of limited scale, and the indications given by the submitted line of sight drawings, it was evident from my inspection that the equipment would be visible in various views from behind the building. Despite efforts in relation to design, the equipment would occupy an elevated position within the street-scene and would appear as an exposed and prominent feature of the building's rear elevation from the south, and across some significant distance.
14. This exposure would include both views from the public realm and high level views from other buildings within overlooking parts of the surrounding Conservation Area. Although the appellants suggest that views from Portugal Street and Serle Street would be screened in due course by a new 7-storey building currently under construction, little specific evidence is available to that particular effect. Whilst such a building may limit exposure to some wider degree, the development site to the south is physically separated from the appeal site by Portugal Street itself. Further, the local configuration of buildings and roads, allied to the proposed height and accompanying exposure of the equipment, would be such that I cannot anticipate that significant views of the antennas would not remain.
15. The Council's Repairs and Alterations to Listed Buildings Supplementary Planning Guidance 1995 (the Listed Buildings SPG) recognises that the form, structure and materials of historic roofs are almost always of interest, and the presumption will be in favour of their retention. The importance of roof-level alterations is further acknowledged by Policy DES 6 of the City of Westminster Unitary Development Plan adopted January 2007 (the UDP). As possibly anticipated by the Listed Buildings SPG and the UDP, I find the rear roofscape of the appeal site does indeed remain an important and attractive part of this elevation and contributes accordingly to the significance of the listed asset.
16. By reason of their scale, design and elevated and exposed position, the antennas would make for a conspicuous and incongruous feature within the roofscape and would add visual clutter. The antennas would appear centrally as a relatively imposing modern structure set against a foreground of ornate architectural and historic detailing, including impressive mansard and other integral features of the building's design immediately below. The resultant relationship would harm the significance of the listed building by reducing its visual integrity and by detracting from its historic form.

17. Whilst the appellants maintain the antennas would be located at similar heights to those in similar circumstances on the Royal College of Surgeons' building, No 39-43 is a taller building and of a contrasting roof form. I also have little clear reason to conclude that the presence of pre-existing equipment elsewhere should in any way mitigate the separate, site-specific impact arising from the appeal proposal.
18. Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) establishes a duty, when considering applications for listed building consent, to have special regard to the desirability of preserving the listed building. Section 66 of the Act establishes a similar duty in considering applications for planning permission.
19. I therefore conclude that the proposed works would incur significant harm to the special architectural and historic interest of the Grade II listed building at No 32 Lincoln's Inn Fields and that its significance would not thereby be preserved.
20. Accordingly, the scheme would be contrary to Policies S25 and S28 of the consolidated City Plan, contrary to Policies DES 1, DES 6 and DES 10 of the UDP, and contrary to the Listed Buildings SPG. These seek, amongst other things, for development to respect a building's character and appearance, and to preserve, restore or complement its features of special architectural or historic interest, and for heritage assets to be conserved.
21. I find these policies to be broadly consistent with National Planning Policy Framework (the Framework) which recognises that heritage assets are an irreplaceable resource and requires them to be conserved in a manner appropriate to their significance¹. The Framework further 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 conservation².
22. The Council refers to a previous absence of details regarding the four remote radio units proposed at the side of the enclosure towards the north-west corner of the roof. Details are set out in the appellants' submission at Appendix CTL4 and, given the scale, design and position of those units, I have little reason to conclude harm in that particular regard, or in relation to other associated aspects of the wider scheme.

Setting of the listed building at No 39-43

23. As with the appeal site, the adjacent building contributes to a resplendent historic townscape in views from all directions, including from the south.
24. The glossary to the Framework defines the setting of a heritage asset to be the surroundings in which it is experienced³. Historic England's Historic Environment Good Practice Advice in Planning: 3 The Setting of Heritage Assets (GPA3), similarly advises that the contribution of setting to the significance of a heritage asset is often expressed with reference to views, a purely visual impression of an asset. In considering whether the setting of a heritage asset makes a contribution to the significance of a listed building, it identifies such

¹ Paragraph 126

² Paragraph 132

³ Page 56

possible factors as the physical surroundings of the asset, the way the asset is appreciated, and the asset's associations and patterns of use.

25. The existing roofscape to No 32 is integral to an appreciation of wider views of No 39-43 from the rear and contributes to its setting as a long-standing historic feature of that adjacent asset. The existing relatively uncluttered higher level townscape is important for how the building is appreciated and understood in wide views from the south, and I find this relationship would be impeded and undermined by the imposing and invasive presence of the equipment within the rear elevation as proposed.
26. I therefore conclude that the proposed scheme would be harmful to the setting of the Grade II* listed building at No 39-43, and contrary to the development plan and the Framework as already detailed. Accordingly, the significance of the building would not be preserved.

Conservation Area

27. Section 72 of the Act places a duty upon the decision-maker in considering applications for, amongst other things, planning permission and listed building consent, to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
28. The Strand Conservation Area is an area of rich historic and architectural heritage as detailed in the Council's Strand Conservation Area Audit Supplementary Planning Guidance 31 January 2003 (the Conservation Area SPG). As with the Listed Buildings SPG, the Conservation Area SPG similarly identifies roof profiles as an important element which can influence the Conservation Area's character and appearance⁴.
29. The characteristic features of the appeal site already described, in turn, make similarly important contributions to the architecturally and historically significant character and appearance of the wider Conservation Area. Reflecting the scheme's exposure, the harm to the listed building identified would also, in turn, have similar, wider implications for its surroundings.
30. I appreciate that in terms of the Conservation Area as a whole, the scheme would involve a relatively modest degree of harm but, even so, neither the character nor the appearance of the Conservation Area would be either preserved or enhanced by the proposed development for the reasons identified.
31. I therefore conclude that the proposed development would be harmful to the character and appearance of the Strand Conservation Area. Accordingly, the scheme would also be contrary in this regard to Policies S25, S28, DES 1 and DES 6 of the development plan as already referred to above, and contrary to the Conservation Area SPG. Further, Policy DES 9 of the UDP requires that development preserves or enhances the character or appearance of Conservation Areas. The Framework also recognises the importance of local distinctiveness⁵.

Other material considerations

32. The appellants cite a number of factors in favour of the scheme.

⁴ Paragraph 3.38

⁵ Paragraph 60

33. The scheme is required in order to provide and improve 3G and 4G coverage to the local area, and is also in response to de-commissioning of an existing neighbouring facility.
34. I note the unsuccessful attempts by the appellants to identify a possible alternative site, and I give significant weight to the evidence presented in this regard as a consideration in favour of the proposal.
35. Reference is also made to technical constraints upon height and location, and including the effects of 'clipping' in relation to surrounding structures. Such constraints are acknowledged as factors dictating the physical characteristics of the scheme, and also as likely influences limiting the possible availability of alternative sites.
36. The scheme would provide important public benefits in terms of local communications infrastructure. The Framework states that advanced, high quality communications infrastructure is essential for sustainable economic growth⁶. It also recognises that the development of high speed broadband technology and other communications networks plays a vital role in enhancing the provision of local community facilities and services. I am also mindful of the Framework's encouragement of proactive decision-making and in the particular context of the presumption to approve applications for sustainable development where possible⁷.
37. The Minister of State for Housing and Planning's Written Statement (Ref: HCWS631) made on 17 March 2016 'Boosting Mobile Connectivity' further confirmed the government's firm commitment to ensuring sufficient capacity is available to meet the growing demand for mobile connectivity. I have also had regard to the Code of Best Practice on Mobile Network Development in England, 2016, which seeks to facilitate the government's objective of supporting high quality communications infrastructure. Policy 4.11 of the London Plan, 2016 similarly seeks to facilitate the provision and delivery of the information and communications technology a modern and developing economy needs.
38. References have been made by the parties to previous approvals relating to the Royal College of Surgeons' building, and I have also noted the various references made to other application determinations and appeal decisions. The courts have held that like cases should be decided in a like manner so that there is consistency in the appellate process. The full details of all such cases are not before me, but the particular circumstances of each case will be different, and each will be necessarily fact and context sensitive.
39. Technical justification for the equipment is not in dispute, and the facilities would be shared by two operators. I have noted the various references made to pre-application discussions, to previous schemes, and to the absence of public objections, including from the Westminster Society.

Planning balance

40. I find that the special interest of the designated assets would be diminished such that the proposed scheme would fail to preserve the listed buildings and

⁶ Paragraph 42

⁷ Paragraph 187

would fail to preserve or enhance the character or appearance of the Conservation Area.

41. The Framework makes a distinction between a scheme causing substantial harm to the significance of a designated heritage asset, such as a listed building or Conservation Area, and development that would lead to less than substantial harm. I find the harm arising to these assets, whilst of a serious nature, to be less than substantial, and the Framework requires such a scale to be weighed against the possible public benefits of the scheme⁸.
42. The scheme would provide important benefits in terms of communications infrastructure, and the physical opportunities for alternative provision in terms of site availability appear to be limited. Nevertheless, I have found that the public benefits arising would not be sufficient to outweigh the serious and collective harm which would arise for the significance of the designated heritage assets by reason of the antennas' scale, design and position.
43. Notwithstanding the details submitted, I also concur with the Council's assessment that I cannot be reasonably satisfied from the evidence before me that the public benefits arising from this scheme could still not be realised through some other alternative proposal/siting without incurring the particular scale and nature of harm to the very important local historic environment as identified.
44. The duties arising under sections 16, 66 and 72 of the Act make strong presumptions against proposals incurring harm and thereby not preserving a designated asset. This is because the desirability of preservation is a consideration to which special attention must be paid as a statutory duty, and must be regarded as a matter of considerable importance and weight in any planning balance.
45. Further, given the harm arising, I find the proposed scheme would fail to comply with the development plan as a whole. Notwithstanding the Framework's support for telecommunications development, the scheme would similarly conflict with its relevant policies towards conserving and enhancing the historic environment and, on balance, would not meet the terms of its presumption in favour of sustainable development⁹.
46. Whilst I agree with the Council's assessment in finding more minor aspects of the scheme not to be harmful, the proposal involves a single package of telecommunications equipment, and I have considered the application on that basis.

Conclusion

47. For the above reasons, **Appeal A** and **Appeal B** are each dismissed.

Peter Rose
INSPECTOR

⁸ Paragraph 134

⁹ Paragraph 14