



Appeal Decision

Site visit made on 4 November 2019

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/X5990/W/19/3235853

The Westbury Hotel, Conduit Street, Westminster W1S 2YF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 EE Ltd & Hutchinson 3G Ltd against the decision of City of Westminster Council.
 - The application Ref 19/03005/TELCOM, dated 11 April 2019, was refused by notice dated 30 May 2019.
 - The development proposed is the installation of antennas, handrails and telecommunications equipment upgrade and associated works at main roof level.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has raised at the appeal stage that they consider the proposal does not fall to be considered as permitted development. However, the prior approval procedure set out under Schedule 2, Part 16 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) makes no provision for any determination to be made as to whether the development would be permitted development and therefore this is not a matter for me to decide as part of the appeal considerations.
3. The provisions of the GPDO under Schedule 2, Part 16, Class A, paragraph A.3(4) require the local planning authority to determine the proposed development solely on the basis of siting and appearance, and taking into account any representations received. My determination of this appeal has been made on the same basis.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposal upon the character and appearance of the area, with particular regard to whether the proposal would preserve or enhance the character or appearance of the Mayfair Conservation Area.

Reasons

5. The Mayfair Conservation Area (the CA) is significant including because of its historic and predominantly rectangular street pattern and related properties including townhouses and commercial buildings. There are many listed and

impressive buildings and Berkeley, Grosvenor and Hanover Squares are important features within the urban fabric of the area. The street pattern allows some longer views of the various roads and an appreciation of the mix of buildings and the surrounding townscape.

6. I am mindful of the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any land or buildings in a Conservation Area.
7. The Westbury Hotel is a substantial building fronting Conduit Street and with a side elevation of the building adjoining New Bond Street. It is located within the Mayfair CA. The building is prominent within the street scene making a positive contribution to the character and appearance of the area. In medium distant views from sections of Bruton Street, when approaching the site from Berkeley Square, the front face of the building, including its tiered roof form is clearly visible because of the angle of the road. From sections of St George Street, when approaching from Hanover Square, part of the building, including sections of the roof, are framed within the street scene. The roof section of the building is therefore an important component in the street scene views of the site.
8. The existing antenna are reasonably apparent elements of the roof, as they are generally skyline in those medium distance views of the building. The reasonably slim antennas, with the other related telecommunications equipment such as the dishes, add clutter to the roof and because of their form detract from the appearance of the building to a minor extent.
9. The proposal would remove most of the existing antenna and replace it with other equipment to facilitate 5G coverage. On the broadly north-eastern roof section of the building there would be two raised steel frames and each would accommodate 4 pole mounted aperture antennas and on the broadly south-west section of the roof there would be a further raised steel frame that would accommodate 4 pole mounted aperture antennas. The proposal would include the addition of related access ladders and handrails to the adjoining roof areas.
10. The additions to the broadly north-east part of the roof would be reasonably bulky, quite tall and functional in appearance. They would be prominent in views when approaching along St George Street and from the broadly north western side of the footway of Bruton Street. In some closer views of the building from these streets the telecommunication equipment on the broadly south west part of the roof would also come into view and be seen in conjunction with the other elements of the proposal, adding to the impact.
11. The equipment would be erected to an existing building and this is encouraged by the National Planning Policy Framework (the Framework). However, the reasonably bulky additions would be on the skyline, draw the eye and be overly dominant within some of the street scene views towards The Westbury Hotel. The equipment would be more apparent than the existing equipment and would not be a sympathetically designed addition to the building or area. The proposal when considered as a whole would detract from the appearance of the building to a moderate extent when viewed in the wider context of the streets lined by reasonably tall buildings.
12. The combined effect of the proposal would be to cause harm to the character and appearance of the CA and therefore detract from the significance of this

heritage asset. The harm to the CA as a whole would be less than substantial within the meaning of paragraph 196 of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.

13. The shared equipment is required in association with the roll-out of the 5G networks for the appellant companies and this would provide improved connectivity and capacity for 2 networks and for the Emergency Services Network (ESN). The Framework explains that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and that decisions should support the expansion of electronic communications networks (such as 5G).
14. Any site in this cell area is likely to be within the CA and it is said that the proposal is the least visually intrusive option available to meet the necessary technical requirements and there is no potential to move the equipment away from this building. However, as this proposal is seen as replacement equipment there is little detailed assessment before me of any alternative sites within the cell area that have been investigated, together with the related analysis that demonstrates that there is no alternative to this site with the specific siting and appearance of the equipment as proposed. Nevertheless, the public benefit arising from the provision of the 5G networks and the ESN would be clear and significant. I therefore attach the public benefits substantial weight.
15. The Framework advises that any harm to the significance of a heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the potential harm to the significance. I have found that the public benefits of the proposal should afford substantial weight. Nevertheless, taking all matters into account I judge that the benefits do not outweigh the harm I have identified to the CA and its significance, which although moderate, in accordance with the Framework, is required to be attributed great weight.
16. In the light of the above analysis, I conclude that the siting and appearance of the proposal would harm the character and appearance of the area and not preserve or enhance the character or appearance of the CA. This harm would not be outweighed by the public benefits of the proposal. The proposal would therefore conflict with Policies S25 and S28 of Westminster's City Plan (2016), and Policies DES 1, DES 6, DES 9 of the Unitary Development Plan (2007) which seek, amongst other things, to recognise Westminster's wider historic environment, the extensive heritage assets, including Conservation Areas.

Conclusion

17. Having regard to the above, and taking all other matters into account, I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR