



Appeal Decisions

Site visit made on 10 December 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal A: APP/P3610/W/19/3237463

The Station House (formerly Stoneleigh Inn), Stoneleigh Broadway, Epsom KT17 2JA

- 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 and Telefonica UK Ltd against the decision of Epsom & Ewell Borough Council.
 - The application Ref 18/01522/FUL, dated 14 January 2019, was refused by the Council by notice dated 20 March 2019.
 - The development proposed is removal and replacement of 3 no antenna, removal of existing 2no Ultrasite cabinets to be replaced with proposed 2no Flatpack Racks on existing concrete base at ground level, removal of existing 1no Eltek to be replaced with proposed 1no Eltek on existing concrete base at ground level and ancillary development thereto.
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Appeal B: APP/P3610/Y/19/3237467

The Station House (formerly Stoneleigh Inn), Stoneleigh Broadway, Epsom KT17 2JA

- 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 and Telefonica UK Ltd against the decision of Epsom & Ewell Borough Council.
 - The application Ref 18/01523/LBA, dated 14 January 2019, was refused by the Council by notice dated 20 March 2019.
 - The works proposed are removal and replacement of 3 no antenna, removal of existing 2no Ultrasite cabinets to be replaced with proposed 2no Flatpack Racks on existing concrete base at ground level, removal of existing 1no Eltek to be replaced with proposed 1no Eltek on existing concrete base at ground level and ancillary development thereto.
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Decisions

1. I dismiss both appeals.

Preliminary Matters

2. The appellant has supplied revision B versions of drawings 201 and 301 noting that *'all proposed external elements on the building will be painted to match their background. The existing cable tray will also be painted to match its background'*. The existing installation appears to have similar finishes and the 'as existing' drawings note that the antennae are painted to match the brickwork. Whilst the appellant refers to the 'Wheatcroft' principles in the request for these amendments to be considered at appeal, and the Council's suggested conditions refer only to the revision A versions, that proposal would

only replicate what is there already. The Council has chosen not to provide a Statement to the appeals, relying on the Officer's Report, so has not commented on this revision one way or the other.

3. The finish could have been the subject of a condition seeking details or specifying the requirement to be as the removed antennae, and no interests would be prejudiced by the acceptance of what would be an improvement to the scheme and one that more closely matches what was considered acceptable previously. The appeals are therefore to be determined on drawings 201B and 301B.

Main Issue

4. The building is listed Grade II and the main issue in both appeals is the effect of the proposal on the architectural or historic significance of the building and its setting.

Reasons

5. Policy DM8 of the Development Management Policies Document states that every opportunity to conserve and enhance heritage assets should be taken by new development. Communication infrastructure is the subject of Policy DM18 with criteria to be satisfied; (i) and (iii) require that the apparatus uses an existing mast or building where practicable, without causing serious harm to the appearance of the site or building to which it relates; and that the apparatus would not cause harm to the visual amenity of listed buildings, conservation areas or other sensitive areas.
6. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
7. Paragraph 193 of the 2019 National Planning Policy Framework 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 conservation. Section 10 sets out the requirements and benefits in support of high-quality communications.
8. The proposal is described as replacements and the Council had previously granted permission and consent for antennae on the same chimney stacks (Refs 16/00386/FUL and 16/00106/LBA dated 24 October 2016). The building was listed in August 2015 and hence that previous grant was made in the knowledge of the significance of the building, since such a recent listing description, in this case of 2½ pages, goes into considerable detail and is more than just an aid to identification; in particular, the listing refers to 'imposing brick chimneys'.
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9. In addition, the policy and legislative requirements would not have changed greatly in the intervening time, and with reference to the version of the Framework extant at that time, it is reasonable to presume that the decisions were taken in the usual balance of harm to public benefits from the then paragraphs 133 or 134 according to the level of harm identified. The existing expressly permitted installation is a material consideration of significant weight although the Council describe the proposed antennae as 'very much larger than

the existing ones' whereas the appellant is of the view that they are a slight increase in width and depth.

10. The existing installation on the 2 double stacks on the Broadway (north) and Kenilworth Road (east) sides are reasonably well assimilated into the bulk of the stacks and acceptably disguised by the painting, so that their presence is not immediately obvious, taken together with the other miscellaneous modern technical items fixed on and around the building. The antenna are seen in longer views as a projection from the stacks, but the effect is acceptable in its impact on the listed building at the distances involved.
11. The third existing antenna to the south-west is however poorly assimilated into the architecture of the building, being fixed at an angle to the slimmer single stack and bracketed out into the open air, presenting an incongruous feature in plain view at the exit from the station, albeit hidden by the roof slope and gable ends from ground-level view from in front of the building and on approaching along Kenilworth Road, although from the private car park the effect is apparent.
12. Turning to the proposals, both of the installations to the double stacks, north and east, would be larger as shown on the drawings, but no taller and both would, with the Revision B works, cause some more harm than is the case at present, due to the addition of the support pole and bracketry, as well as the combiners needing to be fixed high on another face of the stack. The level of harm would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
13. The appellant has provided information on coverage and the intention of providing improvements and upgrading to 4G within buildings, referring to the expectations of the market and to Government policy. There would be public benefits to the economy in productivity and connectivity, and the alternatives considered do not appear to offer the same benefits while bringing the risk of visual harm themselves. The 2 double chimney-stack installations would be justified by the public benefits outweighing the limited additional harm identified over that previously permitted.
14. Turning to the single stack south-west installation, the present level of harm is already greater, and the proposed installation would display its greater depth and width in open air bracketed out from the stack, as would be the support pole, and the Revision B works would do nothing to assimilate the antenna into the architecture or construction of the listed building due to the distance that the antenna would be projected away from the brickwork. The installation would appear as a jarring feature in sufficient public views as to cause harm to the appreciation of the architectural significance of the listed building and its setting, while the preservation of listed buildings does not rely on a public view in any event.
15. The level of harm remains within the 'less than substantial' range but towards the higher end, and the public benefits to be identified need to be that much greater. The web-based Planning Practice Guidance makes clear that the extent of the harm may vary within each category although the alternative 'substantial harm' should be regarded as a high test that may not arise in many cases (Paragraph: 018 Reference ID: 18a-018-20190723).

16. The public benefits remain the same and due weight attaches to them as previously set out. However, the appellant has not addressed the alternatives for this one antenna, facing as it does open land over the railway and car park, and it is unclear why this cannot be fixed in a less obtrusive location than at an angle projecting away from a slim stack at the proposed height, as the risk of 'clipping' from intervening structures may well be less.
17. As stated in the Framework, great weight should be given to the conservation of designated heritage assets such as listed buildings, and in the case of the single stack south-west antenna, the weight attaching to the public benefits of the installation upgrade do not outweigh or otherwise justify the harm. The proposal does not accord with Policies DM8 and DM18(i) and (iii), and would fail the statutory tests in Sections 16(2) and 66(1) of the 1990 Act concerning listed buildings. For the reasons given above, it is concluded that both appeals should be dismissed.

S J Papworth

INSPECTOR