



Appeal Decision

Site visit made on 13 November 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2020

Appeal Ref: APP/K5030/W/19/3235240
167-170 Fleet Street, London EC4A 2EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required 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 UK Ltd against the decision of the City of London Council.
 - The application Ref 19/00190/DPAR, dated 6 March 2019, was refused by notice dated 30 April 2019.
 - The development proposed is for rooftop telecommunications installation upgrade and associated works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) for the siting and appearance of rooftop telecommunications installation upgrade and associated works at 167-170 Fleet Street, London EC4A 2EA in accordance with the terms of the application Ref 19/00190/DPAR, dated 6 March 2019, and the plans submitted with it.

Procedural Matters

2. I have taken the details of the appellant, the proposal and the address from the appeal form as there was no application form submitted.
3. The Council's first reason for refusal is that the proposed mast and associated works would fall outside the parameters of Schedule 2, Part 16, Class A of the GPDO. However, the requirement for prior approval is akin to a pre-commencement condition attached to the grant of permission by Article 3(1) and development which is constructed not in accordance with the terms or conditions of the permission would be at risk of enforcement action. Furthermore, the prior approval procedure set out under the relevant Part of the GPDO makes no provision for any determination to be made as to whether the development would be permitted development.
4. On this basis, I have made no determination as to whether the proposal comes within the description of the relevant class, or would comply with the conditions, limitations or restrictions applicable to development permitted. In accordance with the GPDO, my consideration of the proposed development is limited to its siting and appearance and not to the principle of development.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed development on the character and appearance of the area, and that of heritage assets.

Reasons

6. The site is to the roof of a tall building that fronts Fleet Street. The telecommunication equipment includes a tower mast with associated antennas and dishes. It would be installed in the same location as current telecommunication equipment.
7. The Council acknowledges the benefits of such infrastructure in central London, including 5G provision via this equipment. However, this site is within Fleet Street Conservation Area (CA). The Council have also refused the application based on the effect to the setting of the Grade 1 listed St Dunstan-in-the-West.
8. The proposal would result in a more visually prominent feature than the existing telecoms infrastructure. The tall mast would be visible from areas at street level and as part of the roofscape. Furthermore, the proposed mast would be seen to some extent within the view west from Ludgate Circus and Ludgate Hill, which is identified within the Fleet Street Conservation Area Character Summary as having a strong positive contribution to the CA character.
9. However, in this commercial city centre location, roof top apparatus of the type and scale proposed in this case would not appear incongruous, with various other types of rooftop equipment common. The proposal would include a single mast which would not be particularly bulky and therefore would not result in the cluttering of views or the roofscape in general. The mast would also set back from the front of the roof which would minimize its visual prominence from street level. It is also noted that there is already similar apparatus on the roof of this building, although of less visual prominence than proposed due to its lesser height. Therefore, the proposal would not result in materially adverse visual impacts.
10. Accordingly, considering the existing context and in paying special attention to the desirability of preserving or enhancing the character or appearance of the CA, I find that the proposed scheme would not have an adverse effect on the character or appearance of the area, including the Fleet Street CA. It would thereby preserve the significance of the CA as a designated heritage asset.
11. As noted above, Nos 167-170 is within the setting of the Grade 1 listed St Dunstan-in-the-West, which is to the west of the site also fronting Fleet Street. This is a large Church which is referred to in the Supplementary Planning Document (SPD) 'Protected Views' as a city Church with a skyline presence.
12. However, as stated above, given the commercial city centre location that would be the context to the proposed telecoms apparatus, it is my view that although the mast in particular may be visible within the setting of this listed building, and others in the area, it would not be of a scale or height that would impact the setting or views of these buildings so as to diminish their significance.
13. The principle of development is established by the GPDO and, in this context, I solely have regard to the policies within the Development Plan and the National

Planning Policy Framework (the Framework) which are relevant to the siting and appearance of the proposal. In this regard, I have concluded that the proposed siting and appearance of the development would be acceptable, with the significance of heritage assets preserved. I also note the significant benefits of providing this equipment, as expressed in the appellant's evidence.

14. The proposal is therefore in general accordance with policies CS2, CS12, DM12.1 and DM12.2 of the Local Plan, and Policy 7.8 of the London Plan. These policies seek to, amongst other things, require development to minimise the impact of utility infrastructure to heritage assets, safeguard the setting of listed buildings, and preserves or enhances the character and appearance of the CA.
15. I also consider that the scheme would comply with the Framework which requires electronic communication equipment to be sympathetically designed and that development considers the significance of designated heritage assets.

Conditions

16. Any planning permission granted for the mast under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out, including in paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must be carried out in accordance with the details submitted with the application (unless otherwise agreed in writing by the local planning authority); must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application; and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its former condition. The GPDO sets out these conditions in full.
17. Other than the standard conditions set out in the GPDO for development by electronic communications code operators it is not necessary for me to impose any additional conditions beyond those.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed and prior approval granted, subject to the aforementioned conditions.

S. Rennie

INSPECTOR