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## Appeal Decision

Site visit made on 20 January 2020

**by Tim Wood BA(Hons) BTP MRTPI**

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

**Decision date: 3 February 2020**

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**Appeal Ref: APP/X5990/W/19/3238167**

**2 St James Market, London SW1Y 4SB**

- 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 City of Westminster Council.
  - The application Ref 19/03740/FULL, dated 16 May 2019, was refused by notice dated 5 July 2020.
  - The development proposed is installation of 3 No. antennas mounted on 2 No. poles, 3 equipment cabinets, 15 remote radio heads located on the existing rooftop and associated development.
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### Decision

1. The appeal is allowed and planning permission is granted for installation of 3 No. antennas mounted on 2 No. poles, 3 equipment cabinets, 15 remote radio heads located on the existing rooftop and associated development at 2 St James Market, London SW1Y 4SB in accordance with the terms of the application, Ref 19/03740/FULL, dated 16 May 2019, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) Construction works shall take place only between 08:00 and 18:00 on Mondays to Fridays, 08:00 to 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
  - 3) No development shall commence until details / samples of the materials and colours to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
  - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 100 Rev B; 200 Rev A; 201 Rev C; 202 Rev A; 300 rev A; 301 Rev B; 302 Rev A; 303 Rev B; 304 Rev A; 305 Rev B; 306 Rev A; 307 Rev B; 308 Rev A; 309 Rev A; 310 Rev A; 311 Rev A; 312 Rev A; 313 Rev A; 900 Rev A.

## **Main Issue**

2. The main issue in this appeal is the effects of the proposal on the character and appearance of this building and on the significance of the conservation areas and listed buildings.

## **Reasons**

3. The appeal relates to this eight storey retail and office building which is located within the Haymarket Conservation Area. The existing building resulted from a redevelopment of two blocks, and is bounded by Haymarket, Norris Street, St. James's Market and St. Alban's Street. The site is considered by the Council to be within the setting of the Regent Street Conservation Area, the eastern boundary of which runs down the midline of St. Alban's Street.
4. There are a number of listed buildings within the immediate and wider setting of the site. The majority of these are listed Grade II, including nos. 14-22 Regent Street, which is within the Regent Street Conservation Area. Nos. 218-223 Piccadilly and 34 Haymarket a Grade II\* listed building.
5. Although full details have not been provided to me, the Council indicates that the approval for the existing building contains a condition which prevents any equipment on the roof being sited above or beyond the bounds of an erected screen. The appellant indicates that, in part, the proposal is necessary due to the required removal of equipment at the adjacent St Albans House.
6. Within the Haymarket Conservation Area, information submitted by the appellants indicate that very many of the buildings accommodate utilitarian features at the roof level, including communications equipment, cabinets, air-conditioning plant, window cleaning equipment etc. The appellants have also stated that it is necessary that some of the proposed equipment projects above the screen in order to function. From what I have seen and what has been submitted it seems clear to me that there would be very few opportunities to view the proposed equipment from the ground level, if at all. There may be opportunities to see some of the proposed equipment from higher up within adjacent buildings. This would be from positions where other roof-tops would also be seen and the presence of utilitarian equipment is common. It is also relevant that equipment on St Albans House would be removed and so there is some balance to be considered.
7. Having taken account of the limited opportunities to see the proposal, along with the fact that what would be seen would be very small in comparison with the size of the building, I am satisfied that the proposal would have no negative effects on the character and appearance of the Haymarket Conservation Area. In addition, I am also satisfied that there would be no harmful effects on the setting of the Regent Street Conservation Area, for the same reasons.
8. No 14-22 Regent Street is a grade II listed building sitting close to the appeal site. Taking account of the scale of the individual elements of the proposal, their distance from No 14-22 and the presence of equipment on the roof of the listed building, I consider that there would be no harmful effects on its setting.
9. The Criterion Theatre, Nos 218-233 Piccadilly sits a little distance to the north west of the appeal site. It is itself a large and imposing building, mainly experienced from the north and west. This means that there is no meaningful

inter-visibility between the Criterion and the appeal site. in my judgement, its setting would not be affected by the proposal.

10. No 34 Haymarket is a grade II\* listed building and sits on the opposite side of Haymarket. Within the context of very much taller buildings immediately adjacent to the listed building and the limited views that would be available of the modest proposal, I consider that the setting of the listed building would be preserved by the proposal.
11. Whilst there is some mention of protected views, there is no allegation of harm or reference to such in the reasons for refusal; therefore, I have not sought to address this matter. Therefore, in relation to the main issue, I consider that the proposal would have no harmful effects on the identified heritage assets. As a consequence, I find no conflict with the relevant policies set out by the Council. The appellant has pointed out that the proposal would bring with it public benefits in relation to providing for a better digital communications network. Whilst I have no reason to doubt this, it has not been necessary to rely on this benefit as I have identified no harm to the heritage assets, or any other form of harm.

### **Conditions**

12. I have taken account of the Council's suggested conditions and the advice contained within the Planning Practice Guidance in this respect. I agree that the proposal should be undertaken in accordance with the approved drawings. It is indicated that there are residential premises nearby and I agree that, in this context, a condition limiting the hours of construction of the proposal is necessary and reasonable. I shall also include a condition which seeks to agree the external appearance of the proposal so that it has a satisfactory appearance.

### **Conclusion**

13. For the reasons set out, the appeal is allowed.

*S T Wood*

INSPECTOR