



Appeal Decision

Site visit made on 11 March 2020

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 21st April 2020

Appeal Ref: APP/X5990/W/19/3242752

15-25 Lillian Penson Hall, Talbot Square, London W2 1TT

- 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 Telefonica (UK) Ltd against the decision of City of Westminster Council.
 - The application Ref 19/07294/FULL, dated 19 September 2019, was refused by notice dated 5 November 2019.
 - The development proposed is the installation of 12 antennas and 4 microwave dishes within GRP shrouds on the roof of the building, the installation of 6 equipment on grillage in the centre of the roof and development ancillary thereto.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I note the draft London Plan and draft Westminster City Plan. However, since there is no certainty that these will be adopted in their current form, I attribute them very limited weight.
3. The Council included only one reason for refusal but with several main issues and policies therein, I have therefore considered each of the main issues with reference to only those policies that are directly relevant in each case.

Background and Main Issues

4. The appellant had telecommunications equipment located on the roof of No 50 Eastbourne Terrace. That equipment was removed due to redevelopment of that site. Temporary apparatus was installed on the Mercure Hotel on Praed Street. This appeal proposal seeks to provide a permanent site for the appellant's equipment which endeavours to replace the lost coverage and meet future demand.
5. The main issues are:
 - the effect of the proposed development on the character and appearance of the host building;
 - whether the proposed development would preserve or enhance the character or appearance of Bayswater Conservation Area; and
 - the effect of the proposal on the setting of nearby listed buildings.

Reasons

Character and appearance of the host building

6. Lillian Penson Hall is a seven-storey building with simple massing and a regular rhythm of windows that give a unified, functional appearance. The appeal proposal comprises telecommunications equipment for Telefónica (UK) Ltd¹ and Vodafone Ltd that would provide network services to its customers. Four of the antennas and two microwave dishes would be pole mounted onto the existing plant room located near the south west side of the roof of the building and would be enclosed by a Glass-fibre Reinforced Plastic (GRP) shroud. The other eight antennas and two microwave dishes would be mounted on the tank room on the north east end of the roof, also enclosed by a GRP shroud.
7. The proposal would visually add a mass roughly 2m high on top of the existing plant and tank rooms. The proposed GRP shrouds would obscure visibility of the proposed equipment and I acknowledge that a design could be applied to the shrouds that could for example match the external appearance of the host building. I also note the physical size of the proposed shrouds compared with the whole of the host building. However, given the proposed siting, height and massing, they would nevertheless protrude significantly above the prevailing roof line of the host building, resulting in a discordant effect on the character and appearance of the building which would be seen from a number of nearby views at street level.
8. Consequently, the proposed development would harm the character and appearance of the host building. Therefore, it would conflict with Policies DES 1 and DES 6 of the City of Westminster Unitary Development Plan adopted 24 January 2007 (UDP) which among other things require developments to respect and maintain the character of existing buildings and resist extensions and alterations to existing buildings including telecommunications equipment, where the extension would be visually intrusive or unsightly when seen in longer public or private views from ground or upper levels.

Bayswater Conservation Area (BCA)

9. The significance of BCA lies in the evidence of historic architecture of a range of ages and functions that demonstrate the growth of an affluent part of London. The appeal building is more modern in style with the front facing Talbot Road rendered to echo the colour of Talbot Road terraces and the rear consisting of a brick wall and a regular layout of windows resulting in a more utilitarian style that contrasts with the more decorative historic style of the surrounding buildings. As such, the rear of appeal building provides a negative contribution to the character and appearance of the area whereas the front provides a neutral contribution given that it is in harmony with the adjacent listed buildings.
10. There are long views of the plant room and tank room from various points along Praed Street, London Street, Craven Road and Spring Street. Generally, from these views the plant and tank rooms project above the prevailing roofline and are noticeable from the street. The proposal would appear discordant from these views given the prevailing roofline and historic feel of the area and from some of the views would draw the eye towards the rear of the appeal building which has a less historic appearance than the surrounding buildings.

¹ Telefónica operate in the UK with the brand name O2

11. While I acknowledge the evidence regarding the Paddington Square development, further details are not before me. In any event, the proposal would be viewed in the context of the buildings and roof line to the south of Paddington Station, rather than against the Paddington Square development. Therefore, while I acknowledge the changes that would be likely to occur to the skyline as result of the Paddington Square development as indicated by the appellant, given the adverse effects of the development on the long views towards the area of the appeal site, the proposal would have an adverse effect on the character or appearance of BCA.
12. Consequently, the proposal would neither preserve nor enhance the character or appearance of BCA. Therefore, it would conflict with UDP Policy DES 9 which aims to preserve or enhance the character or appearance of conservation areas. It would also conflict with Policies S25 and S28 of the Westminster City Plan Consolidated with all changes since November 2013 Adopted November 2016 (CP) which together require Westminster's heritage assets and local distinctiveness to be conserved and respected.
13. The harm would be less than substantial in the terms of paragraph 196 of the National Planning Policy Framework (2019) (Framework).

Listed buildings

14. The appeal building lies immediately adjacent to two Grade II listed terraces on Talbot Road (Talbot Road terraces) and the building is near to Paddington Underground Station and the Great Western Hotel which are also Grade II Listed. In addition, it is sited in the vicinity of Paddington Station which is Grade I listed. Given the proximity of the listed buildings to the site, the proposal lies within the setting of these buildings.
15. The Talbot Road terraces are five storey terraces sited on opposite sides of Talbot Square. Their significance lie in the evidence of historic residential architecture and form the surviving sections of a monumental composition opening onto Sussex Gardens. The appeal building is of a similar height and massing and is located at one end of the terraces such that these buildings form a 'U' shape around Talbot Square with the appeal building in the centre. As such, the appeal building appears to be in harmony with and provides a significant contribution to the setting of the Talbot Road terraces.
16. While the plant and tank rooms are sited near either end of the roof, they are nevertheless visible from Talbot Square and the proposal would visually add a 2m tall mass on top of these which would protrude a significant distance above the prevailing height of the appeal building and Talbot Road terraces. I acknowledge the trees in the Square and that the views of the proposal may vary. However, this protrusion would nevertheless disrupt the harmony of the three buildings given the protrusion above the prevailing roofline. Consequently, the proposal would harm the setting of the Talbot Road terraces.
17. The significance of Paddington Underground station lies in the evidence of the historic transport architecture of London. Given the close proximity to this station, the appeal building is viewed within the same context such that it is part of the setting of the underground station.
18. There are views of the plant and tank rooms of the host building from Praed Street between the buildings to the side of the station. The proposed shrouds

would roughly double the height of these plant rooms making them appear more prominent in the background of Paddington Underground Station. While the street scene along Praed Street is somewhat varied, the height of the buildings are generally between three and four storeys. The proposed GRP shrouds, however, would project above this height, making them appear more prominent when viewed from street level and would draw the eye towards the rear of the appeal building. Therefore, the proposal would have an adverse effect on the setting of this listed building.

19. The Great Western Hotel is now the Hilton Paddington hotel (Hotel) and is located opposite the underground station with a grand entrance on Praed Street. The significance of this building lies in the evidence of historic grand hotel architecture and its close relationship with Paddington Station. While this building is a slightly greater distance away from the appeal building than the underground station, views of the rooftop plant rooms can be seen from near the entrance of the hotel and the evidence indicates that they can also be seen from within the rooms. Therefore, the appeal building lies within the setting of this Grade II listed building.
20. The proposed shrouds would be noticeable from various points around the hotel since they would project a significant distance above the roofline of the host building. The rear of the appeal building would also be more noticeable from the hotel such that while the hotel is larger than the appeal building, the proposal would harm its historic setting.
21. Paddington Station is a major transport hub of London, the significance of which lies in the evidence of historic transport architecture on a relatively large scale. While further away from the appeal building than the other listed buildings, since the site lies within the vicinity of Paddington Station and the top of the appeal building is clearly visible from the approach to Praed Street from the station, it lies within the setting of this listed building.
22. One of the primary entrance and exit routes from the station is from Praed Street and offers a view that is dominated by the corner building of the junction of Praed Street with London Street with the tank room on the appeal building clearly visible. The proposed shroud would project a significant distance above this height and would appear discordant making the existing tank room and top and rear of the appeal building more prominent. This would be in contrast to the prevailing three and four storey scale of the more historic buildings along Praed Street and London Street. Therefore, the proposal would have an adverse effect on the setting of this listed building.
23. Consequently, the proposed development would harm the setting of nearby listed buildings. Therefore, it would conflict with CP Policies S25 and S28 which together require Westminster's heritage assets and local distinctiveness to be conserved and respected. In addition, the development would conflict with UDP Policy DES 10 which aims to protect and enhance listed buildings, their settings and those features of special architectural or historic interest that they possess.
24. The harm would be less than substantial in the terms of paragraph 196 of the Framework.

Planning balance

25. While the harm would be less than substantial, bearing in mind the statutory duty² to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, the identified harm carries substantial weight against the proposed development. Furthermore, paragraph 193 of the Framework advises 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 (and the more important the asset, the greater the weight should be).
26. Since the harmful effect of the proposal would be experienced from a number of views in the BCA, the harm in this respect would be in the upper, more harmful part of the 'less than substantial' category. The appeal building has a close relationship to the Talbot Road terraces and the proposed GRP shrouds would project above the prevailing roofline of these buildings. Therefore, the resultant harm to their significance would also lie in the upper, more harmful, end of this category.
27. Since the public views of the proposal from Paddington Underground Station and the Great Western Hotel as well as Paddington Station would be primarily from between existing buildings on Praed Street, the significance of these listed buildings would be diminished from a number of vantage points on the street. Therefore, the harm in this particular regard would fall within the middle part of the 'less than substantial' category.
28. The public benefits of the proposal as set out by the appellant include the provision of network connectivity to the area around Paddington Station and St Mary's Hospital. I note the evidence which sets out the general economic and social benefits of this technology and its importance in national terms. However, the contribution that the equipment subject of this appeal would provide in national terms would be limited. With regard to the site-specific public benefits, the evidence indicates that the proposal would only partially replace the coverage lost from the removal of the equipment on No 50 Eastbourne Terrace.
29. The proposal would also provide coverage to areas including around the Paddington Square development and part of St Mary's Hospital, which previously had a lower level of coverage by Telefonica (UK) Ltd and Vodafone Ltd. However, while I acknowledge that the area is a busy part of London, the details of both the Paddington Square and Crossrail developments before me are limited such that they do not provide compelling evidence in favour of the appeal.
30. I have had regard to the alternative sites considered by the appellant for the proposed equipment. However, while I acknowledge local and technical constraints, given the number of buildings in the locality, including the areas that appear to be undergoing redevelopment, I am not persuaded that other, less prominent, sites cannot be found.
31. I have also had regard to Section 10 of the Framework and that the proposal would comprise the sharing of the site for two large network providers. However, given that there would be some connectivity through localised wi-fi networks, there is insufficient evidence before me, particularly regarding future demand in

² S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

the vicinity, to demonstrate that the public benefits of the proposal should be attributed significant weight.

32. Therefore, given that the identified harm carries substantial weight against the proposed development and great weight should be given to the asset's conservation, for the foregoing reasons, public benefits as put forward by the appellant would not outweigh the less than substantial harm attributed to the harm to BCA and the listed buildings.

Other Matters

33. I acknowledge local concerns including future installation of equipment at the appeal site and ICNIRP³ compliance. However, from the evidence before me, any future development would require planning permission and further assessment. I also note evidence regarding the host building requiring refurbishment. In addition, some of these matters are covered by legislation outside of the planning acts and I have assessed the proposal as presented for appeal against its planning merits-which these matters are extraneous to.
34. I note the comments of the Inspectors for the cases at Westbourne Grove⁴, Riding House Street⁵ and St James's Place⁶ as well as at Oxford Street⁷. While I acknowledge that these cases were for telecommunications equipment, since they were in other parts of London and involving other listed buildings and conservation areas, those cases are not directly comparable with this appeal. While the appellant has referred to two other appeals and other applications in Westminster that involve GRP screening, further details are not before me to allow a comparison to be made with this appeal scheme. In any event, each case must be determined on its individual merits.
35. I acknowledge the evidence regarding permitted development rights and the fall-back position. I also note the evidence regarding UDP Policy SOC9, London Plan and Westminster SPG – Development and Demolition in Conservation Areas (1995). In addition, I note the evidence relating to Code of Best Practice on Mobile Network Development (2016). However, given the harm identified, these matters have not altered my overall decision.

Conclusion

36. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR

³ International Commission on Non-Ionizing Radiation Protection

⁴ Appeal ref: APP/X5990/W/18/3218246

⁵ Appeal ref: APP/X5990/W/19/3235230

⁶ Appeal ref: APP/X5990/W/16/3153505 and APP/X5990/Y/16/3153507

⁷ Appeal Ref: APP/X5990/W/16/3162918