



Appeal Decision

Site visit made on 11 February 2020

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 14 May 2020

Appeal Ref: APP/X5990/W/19/3240352

The Mercure Hotel, 144 Praed Street, London W2 1HU

- 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 Telefonica and Vodafone against the decision of City of Westminster Council.
 - The application Ref 19/06143/FULL, dated 31 July 2019, was refused by notice dated 30 September 2019.
 - The development was originally described as "the retention of temporary telecoms equipment comprising 3 No. 3 metre high poles, 6 No. antennas, 1 No. 0.3 metre dish, 1 No. 0.2 metre dish, 4 No. cabinets and ancillary development thereto for a temporary period of 12 months".
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Decision

1. The appeal is allowed and planning permission is granted for the telecoms equipment comprising 3 No. 3 metre high poles, 6 No. antennas, 1 No. 0.3 metre dish, 1 No. 0.2 metre dish, 4 No. cabinets and ancillary development at the Mercure Hotel, 144 Praed Street, London W2 1HU in accordance with the terms of the application, Ref 19/06143/FUL, dated 31 July 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Locations Plan (Dwg No 100, Rev A, dated 24.05.19); Site Plan (Dwg No 201, Rev A, dated 24.05.19); South East Elevation (Dwg No 301, Rev A, dated 24.05.19); South West Elevation (Dwg No 302, Rev A, dated 24.05.19); North West Elevation (Dwg No 303, Rev A, dated A); North East Elevation (Dwg No 304, Rev A, dated 24.05.19).
 - 2) The development hereby permitted shall be limited for a period of 12 months from the date of this decision, at which point the permitted telecommunications equipment shall be removed from the site and the roof reinstated to its former condition.

Procedural Matters

2. In my formal decision above I have amended the description of development to omit the reference to the 'retention' as it is not an act of development and also the temporary period specified since the duration of the planning permission is controlled by condition.

3. The above development is currently on the appeal site and being used for the purpose described by the appellant. I have therefore determined the appeal on the basis that the development has already occurred.
4. The equipment was sited in October 2018. In the view of the appellant this complied with the emergency permitted development rights¹ which I note that the 18 month period expired in April 2020. I am therefore determining this appeal on the basis of a temporary period of 12 months as submitted.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the host building and surrounding area, having regard to the heritage assets.

Reasons

6. The appeal development is located on the roof of the Mercure Hotel and comprises temporary telecommunications equipment erected following the loss of permanent equipment at 50 Eastbourne Terrace due to redevelopment. The telecommunications equipment is intended to remain on the site for a limited period of 12 months to give the appellant enough time to secure an alternative permanent site and establish the required telecommunications equipment thereafter. The equipment at the appeal site is not fixed to any part of the building.
7. The appeal site is located within the Bayswater Conservation Area (CA). The significance of the CA is derived from its historical context as an early 19th Century masterplan area. The CA is predominantly characterised by large residential development, including those converted to flats and hotels, in long terrace rows, squares and crescents along with tree lined streets, open space and local shops. These elements are considered essential to the composition, character and appearance of the area under the Conservation Area Audit No. 6 Bayswater Supplementary Planning Guidance (SPG) (adopted July 2000).
8. The orderly pattern and built form of development in the CA consequently reinforces its character and appearance. In particular, the roof design of development serves an important role in defining the skyline of the CA as referenced within the Development and Demolition in Conservation Areas SPG (adopted April 1996). The appeal site is not identified as a listed or locally significant building but nevertheless positively reflects the local design and built form characteristics of the area. The prominent location of the appeal site opposite the main entrance to Paddington Station, and on the corner of Praed Street and London Street, emphasises the contribution of the appeal site towards defining the built form and skyline of the CA on the whole.
9. The appeal site is also located adjacent the Hilton Paddington Hotel which is a Grade II building listed as 'Great Western Hotel', and close to the Grade I listed Paddington Station. The significance of these buildings is derived from their historical and architectural contributions to the area. Specifically, the Great Western Hotel represents the first large purpose built hotel in London with architectural details which positively enhance the surrounding character of the area and form a defining feature of the skyline. The Great Western Hotel is

¹ Part 16 of Schedule 2 of the Town and Country Planning Act (General Permitted Development) (England) (Amendment) (No 2) Order 2016

tied to the railway heritage of Paddington Station which is significant as a major historical commuter hub for the city. Views of Paddington Station from Praed Street are predominantly obscured by the Great Western Hotel. As such, the appeal site more closely relates to the Great Western Hotel than the setting of Paddington Station. Accordingly, I am satisfied that the appeal development has a neutral effect on Grade I listed Paddington Station.

10. The telecommunication equipment subject of this appeal are conspicuously located towards the edge of the Mercure Hotel roof to maximise signal efficiency. The flat mansard design of the appeal site roof emphasises the protruding height of the equipment beyond the buildings natural extent and harmful contrast between the traditional character of the building and the utilitarian appearance of the equipment. The equipment is visible at street level and would be visible from buildings surrounding the appeal site. The visibility of the equipment along Praed Street in particular harms the setting of the Grade II listed Great Western Hotel by impeding views of the building and detracting from its unique roof design. As such, the combined siting, scale and appearance of the equipment detracts from the design of the host building, and setting of the Grade II listed Great Western Hotel, harmfully interrupting the built form of the roof and consequently the skyline of the CA.
11. The identified harm resulting from the appeal development is visual in nature, and does not amount to any irreversible physical harm to or loss of significance of a designated heritage asset. As such, I am satisfied that the appeal development amounts to less than substantial harm to the designated heritage assets.
12. Consequently, the appeal development would harm the character and appearance of the host building and surrounding area, having regard to the Bayswater CA and setting of Grade II listed Great Western Hotel. It would conflict with Policies S25 and S28 of the Westminster City Plan (adopted November 2016), Policies DES 1, DES 6, DES 9, DES 10 and Paragraphs 10.108 to 10.128 of the Westminster UDP (adopted January 2007). These policies seek, amongst other things, to ensure development achieves a high standard of design which respects the distinct local character and appearance of areas whilst preserving the significance of heritage assets and the wider historic environment.

Planning Balance

13. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be given to the desirability of preserving or enhancing listed buildings and their setting, and the character or appearance of conservation areas, respectively. Accordingly, the less than substantial harm identified to the CA and setting of the Grade II listed Great Western Hotel attracts great weight. Paragraph 196 of the Framework specifies that where less than substantial harm to a designated heritage asset has been identified that this should be weighed against the public benefits of the development.
14. The appellant advocates that the telecommunications equipment is essential because there are currently no other secured locations, permanent or otherwise, in the area with established equipment to provide mobile service to the community. Should the telecommunications infrastructure under this appeal be removed it is suggested that there would be no mobile signal in the

area which would significantly impact the economic and social well-being conditions of the area. The network coverage mapping supplied by the appellant shows that there would still be coverage in the affected areas but that it would be at a lesser signal level, and as such the suggested lack of mobile signal is relative. Notwithstanding this, I recognise that the loss of signal level could practically represent an adverse impact on mobile signal availability for some users and may therefore have a significant impact upon economic growth, public safety and social well-being within the area.

15. It is therefore my view that the public benefit of the appeal development towards maintaining mobile service in the area in support of economic growth, public safety and social well-being holds significant weight, in particular for commuters using Paddington Station and at St Mary's Hospital. Further adding to the benefit of the telecommunications equipment is its shared function which reduces the need for multiple installations. The appeal development services the Telefonica (known as O2 within the UK) and Vodafone mobile networks, as well as other Mobile Virtual Network Operators (MVNO) which use the network by lease. I note that some users may utilise localised Wi-Fi networks, however this would not outright supplement the loss of mobile service in the area as described and therefore would not lessen the identified public benefit.
16. The temporary 12 month nature of the appeal development being sought and its lack of physical attachment to the host building, to remain moveable, mitigates the harm that would arise to a defined period. After this period the appeal site would be readily capable of restoration to its original condition. The appellant has provided the relevant certification confirming that the appeal development is within the acceptable limits, both individually and cumulatively, of non-ionising radiation levels and will not harm human health.
17. Accordingly, although the appeal development fails to comply with the development plan, I conclude that in this case, the material planning considerations arising from the public benefits justifies the grant of a temporary planning permission. In reaching this conclusion I have therefore found that the public benefits outweigh the less than substantial harm to the designated heritage assets due to the 12 month period being sought.

Conditions

18. In allowing the appeal development I have had regard to the conditions suggested by both the Council and appellant, of which each party has had the opportunity to comment respectively. Where necessary I have amended the wording of the suggested conditions in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance (PPG) and the Framework.
19. Planning permission is granted subject to a condition specifying the approved plans in the interest of certainty. A condition restricting the period which the development is permitted to occur is also necessary for clarity on how long the permission is valid for and to set out what is required of the equipment and the roof of the appeal site once this period ends. As the appeal development has already occurred on the site it is not necessary to impose a building and construction hours condition.

Conclusion

20. For the reasons given above I conclude that the appeal should be allowed.

J Gibson

INSPECTOR