
Appeal Decision

Site visit made on 4 August 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2020

Appeal Ref: APP/W2465/W/3251949

Existing base station, Carrick Point, Cellnet Falmouth Road, Leicester LE5 4WN

- 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 MBNL (EE & H3G) against the decision of Leicester City Council.
 - The application Ref 20191679, dated 30 August 2019, was refused by notice dated 8 November 2019.
 - The development proposed is the replacement of 6 no pole mounted antenna with a 7.5m slimline stub tower supporting 12 no antenna apertures, together with the internal upgrade of the existing equipment cabin and ancillary development thereto.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As part of the appeal process the appellant submitted additional background information and plans¹ to provide further details in support of the proposal to address the reason for refusal.
3. To avoid the risk of prejudicing interested parties it would only be appropriate for me to take the documents and plans into account if all interested parties had been given an opportunity of making further representations. The additional documents and plans were submitted with the appeal and interested parties would have been notified of the appeal.
4. Whilst, the Council has not provided a response to the documents and plans which contained photo montages, it would have had a chance to consider the information and to respond accordingly. Furthermore, the additional information does not materially alter the proposed scheme, and only provides additional context. Having regard to the Wheatcroft principles² and guidance³, I am satisfied that there is no risk of prejudice if I was to take the plans and documentation into account. I have, therefore, determined the appeal on this basis.

¹ Connected Growth - A manual for places working to boost their digital, cultural and social connectivity - Department for Digital, Culture, Media and Sport (2019) and Photo montages (1-4).

² Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

³ Procedural Guide Planning Appeals – England

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the host building, a non-designated heritage asset.

Reasons

6. The appeal building, known as Carrick Point, is a block of high-rise flats constructed in the 1970s and it is a locally listed asset covered by an Article 4 Direction. It has been included in the Council's Heritage Asset Register due to its historic and architectural interest, rarity, representativeness and its landmark quality. It was constructed for the Leicester Co-ownership Housing Society by a local architect and artist Douglas Smith. The building is made up of a number of distinct, vertical elements that vary in height, with the tallest element being the central tower. Due to the height of the building, it is a visually prominent and landmark structure in the skyline, and it is readily visible and recognisable from the surrounding area.
7. Around the base of the building there is landscaping including grass and trees. The surrounding area has a mixture of uses, including houses and low-rise flats, churches, a school, a hospital, a sports facility and a parade of shops. There have been a number of previous approvals on the site for various telecommunications development, and there is existing equipment still present on the building. The existing antennas on the building are visible when in close proximity to the building. However, due to their location, height and the building design, when viewed at a distance, their appearance is not prominent or stark against the building or skyline.
8. The proposal would remove 6 of the existing antennas which have been individually mounted on poles at various points on the roof of the block. These would be replaced by a single 7.5m high tower to support up to 12 antennas. The new stub tower would be located on the highest part of the block. There would also be additional ancillary development, including an internal upgrade of the existing equipment cabin.
9. The appellant states that an upgraded base station site is required in this location to maintain existing network coverage and capacity, as well as catering for added multiple technologies, most notably 5G, and that the existing structures are not capable of supporting the required equipment. In addition, it is suggested that the existing elevations would be insufficient to avoid interference or meet current International Commission on Non-Ionizing Radiation Protection (ICNIRP) requirements.
10. The proposed development would be significantly different to the existing antennas, as it would be located on the tallest and most prominent part of the building. Whilst I note it would be set back from the roof edge, it would be readily visible against the skyline from a wide area. Furthermore, the proposed development differs to the existing development in that it has a wide headframe with a dense cluster of antennas. The additional bulk and clustering would make the proposal more visually obtrusive and recognisable, which would detract from, and harm, the wider views towards the building.
11. Paragraph 192 of the National Planning Policy Framework (the Framework) of the Framework requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, and

- the desirability of development making a positive contribution to local character and distinctiveness.
12. Paragraph 197 of the Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
 13. The significance of the building has been assessed by the appellant in evidential, historical, aesthetic, and communal terms, scoring it as low, moderate, moderate and high significance respectively. Therefore, the appellant's assessment would give the building a moderate significance overall. The appellant has suggested that proposed stub tower would be experienced as a feature, which in comparison with the host building, would be a subservient addition, and that the existing asymmetry of the host building alleviates and mitigates the potential impact that the proposed mast may cause.
 14. However, I am not persuaded that the proposal would appear subservient or that the design of the building would reduce the impact of the proposal. The height of the host building is significant compared to the surrounding context, and a structure such as that proposed on top of the building would be visually prominent and would be a harmful addition to the existing skyline.
 15. Whilst the removal of the existing equipment would help to reduce the sense of clutter currently affecting the host building, this would not outweigh the harm caused by the proposal. It has also been suggested that as the proposal would be shared by two major network operators, it would avoid unnecessary proliferation of base stations and telecommunications masts in the area, and that without this proposal, there could be 4 - 5 street sites required. I also note that the Framework encourages the use of existing masts, building and other structures. However, these factors do not necessarily make the harm to the non-designated heritage asset acceptable. In any case, there is no substantive evidence before me to support the need for 4 - 5 alternative sites if this proposal was refused consent.
 16. The appellant has also provided 2 appeals⁴ where the Inspectors found that the public benefits outweighed the harm that was identified within each case. Although I have been provided with the Inspector reports, I have not been provided with full details of the schemes, therefore, I am not able to determine if they are directly comparable. In any case, each proposal must be determined on its own planning merits and within its own context.
 17. I recognise that the proposal would have a public benefit for those in the area and that the Framework supports advanced, high quality and reliable communications infrastructure that is essential for economic growth and social well-being. I also appreciate that the current Covid-19 crisis has highlighted the importance of a high quality communications network. I also note that the Framework encourages the use of existing masts, buildings and other structures for new electronic communications capability. Whilst the proposal is only a non-designated heritage asset, the harmful effect of the proposal would

⁴ Appeal ref APP/L1765/W/18/3197522 and APP/Q3305/W/18/3206555

be significant due to how visible the building is within the surrounding area and the visual effect of the proposal would be wide ranging.

18. Accordingly, the proposed development would have a harmful effect on the character and appearance of the host building, a non-designated asset. Therefore, it would be contrary to Policies CS03 and CS18 of the Core Strategy (2014) and Paragraphs 127, 192 and 197 of the Framework. These Policies, amongst other things, require development to contribute positively to an area's character and appearance be sympathetic to local character and history and to protect and where appropriate, enhance the historic environment.

Conclusion

19. For the reasons set out above, I conclude that the appeal is dismissed.

D Peppitt

INSPECTOR