



Appeal Decision

Site visit made on 19 October 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2020

Appeal Ref: APP/V5570/W/20/3251047

Finsbury Pavement, 127 Chiswell Street, Islington, London EC2A 1NT

- 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 Limited against the decision of the Council of the London Borough of Islington.
 - The application Ref P2019/3639/FUL, dated 6 December 2019, was refused by notice dated 31 January 2020.
 - The development proposed is the installation of 12no. antennas mounted on 6no. 3.15m high support poles, 3no. 0.3m microwave dishes & 1no. 0.6m dish, the installation of 6no. cabinets on grillage on the roof of the building and development ancillary thereto.
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of 12no. antennas mounted on 6no. 3.15m high support poles, 3no. 0.3m microwave dishes & 1no. 0.6m dish, the installation of 6no. cabinets on grillage on the roof of the building and development ancillary thereto at Finsbury Pavement, 127 Chiswell Street, Islington, London EC2A 1NT in accordance with the terms of the application, Ref P2019/3639/FUL, dated 6 December 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) The development hereby permitted shall be carried out in accordance with the following approved plans: 100 Rev A, 200 Rev B, 201 Rev B, 300 Rev A, 301 Rev A and Supplementary Information.

Procedural Matter

2. The description of the proposed development on the planning application form included typographical errors, indicating that it would include the installation of 3 microwave dishes measuring 0.3mm, and a further dish measuring 0.6mm. These errors were spotted before the application was being determined, and the description of development on the issued decision notice included the correct dimensions. For accuracy, I have used the description from the decision notice in the banner heading and formal decision.

Main Issues

3. The main issues are:
 - Whether or not the proposed development would preserve or enhance the character or appearance of the Bunhill Fields and Finsbury Square

Conservation Area, and the setting of nearby Grade II Listed Buildings within Finsbury Square; and

- In the event of any harm to the significance of designated heritage assets being found, whether or not this would be outweighed by the proposal's public benefits.

Reasons

Effect on Heritage Assets

4. The appeal site straddles the boundary of the Bunhill Fields and Finsbury Square Conservation Area (the Conservation Area), though most of the site within the 'red line' boundary on the submitted location plan falls within the Conservation Area. It is also close to Grade II Listed Buildings within Finsbury Square. I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, and to have special regard to the desirability of preserving the setting of the Listed Buildings. As heritage assets are irreplaceable, the National Planning Policy Framework (the Framework) states that they should be conserved in a manner appropriate to their significance (paragraph 184).
5. The Conservation Area's significance derives from its collection of famous and historic buildings and open spaces, including Bunhill Fields Burial Grounds, the barracks and grounds of the Honourable Artillery Company, and Wesley's Chapel, all on City Road a short distance north of the appeal site. Finsbury Square itself (the Square) is dominated by commercial buildings of varying ages, but with consistent height and massing, and predominantly with Portland stone facing, which gives the Square a grand and solid character. I saw on my site visit that there is very little in the way of rooftop plant or other equipment visible above the buildings' parapets. I note also that in order to preserve the clean rooflines of the Square, the 2002 Islington Conservation Area Design Guidelines specifically advises that satellite dish receivers and aerials should not be installed where they would be visible from Finsbury Square.
6. The host building is a modern nine storey office, with a roof level plant enclosure above the ninth floor, located at the southwest corner of Finsbury Square. In common with most of the buildings around the Square, it has a parapet above the sixth level, above which the upper floors are stepped back. The proposal is to install at rooftop level 12 antennas mounted in pairs on supporting posts, 4 microwave dishes and 6 equipment cabinets. Four antennas on 2 posts would be located at the northern end of the rooftop, and only this part of the installation would actually be within the Conservation Area. The remaining antennas and other equipment would be installed at the southern end of the rooftop, and thus would fall outside the Conservation Area boundary. However, I saw on my site visit that there are no visual clues as to where the boundary of the Conservation Area lies, and in practical terms it is necessary to consider the proposed installation as a whole.
7. The antennas and dishes would sit towards the edge of the existing rooftop plant enclosure. The height of the host building and the set back of the upper floors behind the parapet means that the installation would be unlikely to be seen at all from ground level on Finsbury Pavement or Chiswell Street alongside the appeal site. The equipment would, however, be visible from the Square, where the open space allows for longer views towards the site. In this

- context, the proposed installation would introduce a degree of roof clutter which would be discordant in appearance and disruptive of the otherwise clean and orderly rooflines of the buildings around Finsbury Square. It would therefore fail to reinforce the positive townscape of the Conservation Area.
8. The equipment would rise to a maximum height of approximately 3m above the upper roof level of the rooftop plant enclosure. Given the reasonably slender nature of the proposed antennas and their supporting posts, and their relatively small scale when seen atop the nine-storey host building, I do not consider that they would appear as particularly dominant additions. Moreover, from my observations on my site visit it seems that other than a small part of the south east corner of Finsbury Square between Sun Street and the Square itself there are few, if any, locations where the installed equipment would be seen from public places silhouetted against the sky. In views from most of the Square the antennas and dishes would be set against a backdrop of taller buildings including Citypoint and No 25 Ropemaker Street, both south west of the appeal site and, in due course, the 27-storey office block currently under construction at 101-117 Finsbury Pavement. These factors would reduce, although not eliminate, their harmful visual impact on the Conservation Area.
 9. The Council's decision notice referred to the impact of the proposed development on the setting of the Grade II Listed Finsbury Square. In fact, it is not the Square as a whole which is Listed, but three separate structures within it. These are two horse troughs and a drinking fountain, which are located within the south east corner of the square. Given the small size of the three listed buildings, they are most readily appreciated (whether individually or as a group) in close views. While I accept the Council's point that the setting of the Square as a whole is a key attribute of the Conservation Area, in my view the setting of the three Listed Buildings is small and focussed. While the proposed installation would be visible from the south east corner of the Square, the separation distance and spatial relationship mean that it would be unlikely to detract or distract from the appreciation of the three Listed Buildings.
 10. I consider that the development would fail to preserve or enhance the character or appearance of the Bunhill Fields and Finsbury Square Conservation Area. The harm would be limited by the siting and relatively small scale of the development, and in the Framework's terms the harm to the significance of the Conservation Area as a designated heritage asset would be less than substantial. I find that the setting of the Grade II Listed Buildings within Finsbury Square would be preserved.
 11. The proposal therefore conflicts with Policies 7.4, 7.6 and 7.8 of the 2016 London Plan, Policies CS8 and CS9 of the 2011 Islington Core Strategy, and Policies DM2.1, DM2.3 and DM2.7 of the 2013 Islington Development Management Policies (the IDMP), as well as advice within the 2002 Conservation Area Design Guidelines, the 2017 Urban Design Guide. Together, these policies and guidance seek to ensure that development makes a positive contribution to the local character and distinctiveness of an area, and that development affecting heritage assets or their settings should conserve their significance by being sympathetic to their form, scale, materials and architectural detail.
 12. The Council cited conflict with Policy DM2.4 of the IDMP which relates to protected views. However, there is no evidence before me which suggests that

the proposal would have an adverse impact on any protected views. The decision notice also indicated conflict with the 2013 Finsbury Local Plan (the FLP), although it did not refer to specific policies. While the Council's officer report referred to conflict with Policy BC7 of the FLP, that policy specifically refers to the Clerkenwell area some way west of the appeal site. I therefore find no conflict with either of these parts of the development plan.

Public benefits

13. The Framework advises that any harm to or loss of heritage assets requires clear and convincing justification (paragraph 194) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 196). The requirements of the Framework are reflected in Policy DM2.3 of the IDMP, which states that '*harm to the significance of a conservation area will not be permitted unless there is clear and convincing justification*'.
14. The Framework advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning decisions should support the expansion of electronic communications networks, including next generation mobile technology such as 5G. The proposed installation would serve two national network operators, replacing a 3G and 4G base station previously sited on the now-demolished building at 101-117 Finsbury Pavement a very short distance to the south of the appeal site. It would also provide 5G network services.
15. As a proposed replacement installation, the potential area in which the equipment could be installed to ensure continuity of network coverage and capacity is necessarily limited. Site selection information has been provided in respect of alternative sites in the vicinity. These include the site at 1 Finsbury Square (to the north of the appeal site) which has an extant planning permission for a telecommunications installation¹, but where it has not been possible to secure access agreements with the building's owner. Other sites were explored but discounted either as too far from the decommissioned installation, or unable to provide adequate network coverage to the target area without a need for further additional base stations. I note that the Council has not disputed the conclusions in respect of the lack of suitable alternative sites, nor has it suggested any other alternative sites itself.
16. I have also considered the submitted coverage mapping, which models the strength of 3G and 4G coverage based on the service currently provided against the service that would be provided should the proposed apparatus be installed. Whilst this suggests that strong signal strengths are already widely available in the local area, the coverage mapping illustrates that the proposal would still deliver tangible improvements. There are significant benefits to the public at large from being able to access high quality mobile communications. The appellant also describes the potential benefits to the emergency services in ensuring that they can rely on mobile network services in attending emergencies and responding to other incidents.
17. The Council states that any benefits arising from the scheme would be '*not entirely public in the manner of, for example, a fire station*'. As a statement of bare fact this is not inaccurate, inasmuch as the scheme is being brought

¹ London Borough of Islington reference P2018/4162/FUL

forward on behalf of two network operators, presumably in anticipation of it contributing to their business revenues. The Council also asserts that '*any harm to a conservation area [...] is only acceptable in extraordinary circumstances, usually in order to secure the optimum viable use of an asset or better reveal its significance*' and its expectation that there should necessarily be an '*accompanying heritage benefit*'. In my view this is a misinterpretation of the requirements of the Framework. Paragraph 196 is quite clear about the balancing exercise which must be carried out in cases where less than substantial harm to heritage assets is found, which is not that any benefits should be *entirely public*, but that such public benefits as can be identified are weighed against any harm to the significance of the heritage asset. In this case, there would be a considerable public benefit arising from the provision of improved digital communications networks in this busy commercial area, and I consider that this carries significant weight.

18. I conclude that the limited level of less than substantial harm to the Bunhill Fields and Finsbury Square Conservation Area arising from the proposed development would be outweighed by the public benefits identified. The proposal would therefore accord with the provisions of the Framework in respect of conserving and enhancing the historic environment, and with IDMP Policy DM2.3 in respect of its requirement that harm to the significance of designated heritage assets requires clear and convincing justification.

Planning Balance

19. I have found that the proposal would fail to preserve or enhance the character or appearance of the Bunhill Fields and Finsbury Square Conservation Area, and would cause less than substantial harm to the significance of the Conservation Area as a designated heritage asset. In this respect I have also found conflict with planning policies, and indeed the proposal would conflict with the development plan as a whole.
20. However, I have also found that a significant public benefit would be delivered through the provision of improved mobile communications networks, which would outweigh the limited harm to the heritage asset which I have identified. The material considerations therefore indicate that, in this case, the proposal should be determined other than in accordance with the development plan.

Conditions

21. As well as the standard time limit condition, a condition specifying the approved plans is necessary to provide certainty.

Conclusion

22. For the reasons given above the appeal is allowed subject to conditions.

M Cryan

Inspector