



Appeal Decision

Site Visit made on 8 December 2020

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2021

Appeal Ref: APP/P4605/W/20/3254082

Greencoat House, 261-271 Stratford Road, Birmingham, West Midlands B11 1QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by EE Limited & Hutchinson 3G UK Limited against the decision of Birmingham City Council.
 - The application Ref 2020/02796/PA, dated 31 March 2020, was refused by notice issued 1 June 2020.
 - The development proposed is a telecommunications rooftop installation and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of Schedule 2, Part 16, Class A of the GPDO require the proposed development to be assessed solely on the basis of its siting and appearance, taking into account any representations received. My determination will be made on this basis, having regard to policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are relevant.
3. The Council's refusal reason cites Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). However, the application which led to this appeal was neither an application for planning permission nor listed building consent, therefore the provisions of the Act do not apply.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed development on the character and appearance of the surrounding area, with particular regard to the setting of nearby heritage assets.

Reasons

The appeal site and its surroundings

5. The appeal relates to the rooftop of Greencoat House, a large and prominent modern five storey building set back from the highway along the western side of Stratford Road, a busy arterial route through this part of the city. The site's immediate surroundings are characterised by a mix of commercial and residential uses with its wider surroundings being predominantly residential in

character. The wider, intrinsically urban, context of the area includes a variety of building types, styles and ages.

6. The Grade I listed Church of St Agatha is located approximately 85 metres to the northwest of the appeal site and alongside it is the Grade II* listed Ladypool Primary School. The Church of St Agatha was erected between 1899 and 1901, designed by William Henry Bidlake in a perpendicular style, reinterpreted with arts and crafts expression. Its great lofty tower with slender octagonal corner turrets dominates the building and, owing to its significant stature, forms a visually striking and highly prominent local landmark in this part of the city. Its Grade I status is in recognition of the special architectural and historic interest of the building, designed by a renowned architect and with exceptionally fine architectural detailing.
7. The Grade II* listed Ladypool Primary School, dating from 1885, is of a smaller scale but nonetheless the List Description notes it as being one of the best of the surviving schools by Martin and Chamberlain, one of the leading architectural practices in late-Victorian Birmingham. Its significance, in part, is derived from its imaginative polychrome Gothic design which features a range of gables of varying heights, with corresponding variety in window form and decorative treatment. This is complemented by a rich and effective use of materials, including red brick, terracotta dressings, mosaic and timber framing. The school and church also have group value, forming a strong architectural grouping that is reminiscent of the historical development of this part of the city.
8. The appeal site and the other buildings and land surrounding these designated heritage assets form an important setting in which their historic and architectural significance can be experienced and appreciated. Indeed, the appeal building affords views of the church tower, particularly from the south, and owing to its close proximity to the listed buildings, is viewed as part of the same street scene along Stratford Road.

The appeal scheme

9. The appeal proposal comprises a rooftop telecommunications installation with a number of antennas and satellite dishes installed on support poles above the roof of the building's plant room which is located in the centre of the rooftop. Supporting telecommunications apparatus including cabling and cabinets would be installed on the roof of the main building, mounted on freestanding frames.
10. The appellant states that the proposal is to replace an existing nearby telecommunications installation following a notice to quit for that site. The new installation would facilitate 5G coverage within the area.

The effect of the appeal scheme

11. The proposed antennas and satellite dishes would rise to a height markedly above the roof of the building, in marked contrast with the strong horizontal emphasis of its design and would be visible in a number of views from its surroundings. As a result, the proposed installation would be a prominent and visually intrusive feature that, contrary to the appellant's view, would be highly visible from street level where the existing rooftop plant room can easily be seen.

12. Whilst I appreciate the operational requirement for the proposed height of the antennas, they would rise significantly over the roof of the building. This, coupled with their central positioning on the roof, would accentuate their presence and exert a harmful dominance over Greencoat House and its surroundings.
13. Owing to its height and rooftop location, the proposed installation would be highly visible over a wide area, including for some distance in views along Stratford Road, particularly when approaching from the south, and not only when looking skyward. The view over the appeal site from the south along Stratford Road towards the Church of St Agatha forms a key view of the Listed Building, allowing an appreciation of its significance and thereby making a significant contribution to its setting.
14. The proposed installation would harmfully interrupt views of the church tower from the south with the prominent utilitarian appearance of the antennas being markedly at odds with the ornate and fine architectural detail of the listed church. The siting of a number of antennas and associated apparatus at such a high level, and concentrated around the plant room, would clutter the rooftop, appearing as a prominent and discordant feature set against the backdrop of the Grade I Listed Building, detracting from the grandeur of its great tower.
15. Furthermore, given its proximity and height in relation to the Listed Building, it would also be apparent in views from streets to the east and west where it would form a highly visible addition to the skyline, harmfully competing with the dominance of the church tower, to the clear detriment of its historic and architectural significance. The presence of trees along Stratford Road, being at a much lower level, would do little to temper these harmful effects. Similarly, an alternative colour scheme for the antennas would be unlikely to reduce its impact to an acceptable level.
16. Albeit to a lesser degree, the proposed installation would also harmfully detract from the setting of Ladypool Primary School as, contrary to the appellant's view, it would be experienced in the same visual frame on the approach from the north along Stratford Road. In this view of the street scene, the proposal would be apparent as an incongruous feature, markedly in contrast with the modest scale and imaginative architectural qualities of the listed school.
17. Although the appellant asserts that the appeal site is not a sensitive location and would not therefore "significantly impact on the setting of the character and visual amenity of the heritage assets", the height of the proposed antennas and their utilitarian appearance, coupled with their prominent rooftop location and proximity to the nearby listed buildings, offers limited support for that assertion. In all of these respects, the proposed development would fail to conserve the significance of the nearby listed buildings.
18. For these reasons, I find that the siting and appearance of the proposed development would be harmful to the character and appearance of the surrounding area, with particular regard to the setting of nearby heritage assets. In so far as they are relevant, it follows that the proposal would be contrary to policy TP12 of the Birmingham Development Plan 2017 (the BDP) and the associated policies of the Framework which together seek to conserve the significance of heritage assets and their settings.

19. The Council's Decision Notice also cites conflict with BDP policy TP14 but as this policy relates to new and existing waste facilities, I do not consider it to be relevant to the appeal. However, the lack of conflict with this policy is a neutral factor, which weighs neither in favour of nor against the proposal.
20. Due to the extent of the proposed development's impacts, the degree of harm to the significance of the listed buildings would, in the terms of the Framework, be 'less than substantial'. In such circumstances the Framework requires that the harm is weighed against any public benefits that the proposal might secure, which I return to in my overall planning balance below.

Other Matters

21. My attention is drawn to a previous grant of Prior Approval¹ for a telecommunications installation at the appeal site, with the appellant suggesting that this demonstrates an acceptance in principle for the appeal scheme. However, I have not been provided with any details of this previous scheme and cannot therefore be sure that it represents a more harmful alternative to the scheme before me. In any case, I have considered the appeal proposal on its own merits and reached my own conclusion.
22. I note that the appellant has sought to undertake pre-application consultation with the Council and local Ward Members, with no response having been received. I acknowledge the appellant's frustrations in this regard, but these procedural matters are beyond my remit, which is focused on the planning merits of the appeal.
23. The appeal site is not located within a conservation area and nor is the site a listed building. I accept that there is unlikely to be any adverse impact to the living conditions of nearby residents and the appellant has demonstrated that the scheme would be compliant with the guidelines published by the International Commission on Non-Ionising Radiation Protection (ICNIRP). Nonetheless, these are neutral factors that weigh neither in favour of, nor against, the appeal.
24. The appellant suggests that the installation would be similar to comparable roof top installations in such urban locations that are near listed buildings, and that such designs and installations are accepted and regularly seen in comparable locations. That may well be the case, but each proposal must be considered on its own individual merits with regard to the site's unique surroundings, context and in light of what is proposed.
25. The appellant has advised that a sequential site selection process has been undertaken with eight alternative sites being discounted for various reasons. I have been provided with a brief summary of each of these alternative sites, but I find this evidence to be limited and it does not conclusively establish that a less harmful alternative would be unavailable.

Overall Balance and Conclusion

26. Paragraph 193 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 194 goes on to advise that significance can be harmed or lost through the alteration or

¹ Ref. 2017/10756/PA

- destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
27. In this case, due to the extent of the proposed development's impacts, I have found that it would cause less than substantial harm to the significance of the nearby listed buildings. Under such circumstances, the Framework advises, at paragraph 196, that any harm should be weighed against the public benefits of the proposal.
28. I recognise that the Government places a high priority on the provision of high quality communications. Paragraph 112 of the Framework states, "*Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections*". In addition, the appellant has drawn my attention to several Government statements and documents highlighting effective digital communications as a key Government priority and the economic and social benefits, which could accrue from networks which facilitate these.
29. In this case, the proposal would enhance 5G digital telecommunication services in the area and replace an existing installation within the locality that is subject to a notice to quit. The proposal would therefore provide significant benefits to local consumers including residents, visitors and businesses. I also note that the installation would be shared by two network operators as well as with the Emergency Services Network (ESN). These public benefits weigh significantly in favour of the proposal.
30. Nonetheless, I am mindful that heritage assets, such as listed buildings, are an irreplaceable resource and should be conserved so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Therefore, although the Government aims to facilitate the growth of new telecommunication systems and digital technologies, it also places great emphasis on protecting areas and buildings of architectural and historic significance. Consequently, the harmful effects I have identified to the significance of the nearby listed buildings are considerations which, in accordance with the Framework, attract great weight, and such weight ultimately tips the balance firmly against the appeal scheme.
31. Accordingly, for the reasons set out above, the appeal is dismissed.

Jeff Tweddle

INSPECTOR