



Appeal Decision

Site Visit made on 9 March 2021

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 16 March 2021

Appeal Ref: APP/G2625/W/20/3254990

Epic Studios, 112-116 Magdalen Street, Norwich NR3 1JD

- 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 (UK) Ltd and H3G (UK) Ltd) against the decision of Norwich City Council.
- The application Ref 19/01735/FT, dated 5 December 2019, was refused by notice dated 4 February 2020.
- The development proposed is the installation of 6 no. antenna apertures and 4 no. 600mm dishes on new support poles, and 7 no. equipment cabinets, all at roof level, and development ancillary thereto.

Decision

1. The appeal is allowed and planning permission is granted for the installation of 6 no. antenna apertures and 4 no. 600mm dishes on new support poles, and 7 no. equipment cabinets, all at roof level, and development ancillary thereto at Epic Studios, 112-116 Magdalen Street, Norwich NR3 1JD in accordance with the terms of the application, 19/01735/FT, dated 5 December 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Master Drawing Number 1539500_NOR077_98782_NR0468_M007

Drawing Title 002 Site Location Plan

Drawing Title 265 PROPOSED MAX CONFIGURATION ELEVATION

Drawing Title 215 PROPOSED MAX CONFIGURATION SITE PLAN
 - 3) As soon as reasonably practicable after it is no longer required for electronic communications purposes the site shall be restored to its condition before any form of telecommunications development took place.

Preliminary Matters

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area with particular reference to the City Centre Conservation Area (the CA) and nearby heritage assets.

Reasons

3. Epic Studios lies close the junction of Magdalene Street with Edward Street, with frontages on both streets. The building lies within the CA. The CA is extensive and is subdivided into several character areas. The site lies within, but on the edge of, the Anglia Square character area. The other side of the Road is within the Northern City character area of the CA. Fronting onto Magdalen Street are several Grade II Listed Buildings: - 105, 107, 109, 113, 115 and 117 Magdalen Street (the LBs), and the locally listed building (LLB) 111 Magdalen Street, all lying within the Northern City Character Area. 102 Magdalen Street, at the corner of the junction of Magdalen Street with Edward Street, is an LLB.
4. The significance of the CA, in so far as it relates to this appeal, derives from its evidential, historic and aesthetic value found in the authenticity of its vernacular architecture to which the design and appearance of the LBs and the LLBs make a positive contribution. However, nearby, more modern buildings, including the host building and Anglia Square to the south, and several extensive surface level car parks, detract from the visual appearance of the wider area. The character and appearance of the CA in this vicinity is somewhat mixed, varying between open areas of car parking, angular modern buildings and the more traditional buildings fronting Magdalene Street itself, with a bustling shopping street running through. The host building, Anglia Square and the surface car parks do not make a positive contribution to the character or appearance of the CA.
5. The host building is a large, angular building with several areas of flat roofing, one area of which would accommodate the proposed antennae and their supports. The location of the proposed structure contains an existing antenna dish, which would be removed. This area is set back from the facades of the building facing onto Magdalen Street and Edward Street and the building itself would screen views of the apparatus from many vantage points at street level.
6. The antennae and supports would, however, be visible from the wider area, particularly from the west, on Edward Street, and beyond, and from the south-east on Magdalen Street near its junction with Cowgate Street. From the west the apparatus would be viewed in the context of the modern roofscape created by the host building. The views from Magdalene Street would include the LLB at No 102 and contribute to the character of its setting. Whilst limited by existing built form in the area there would, nonetheless, be an adverse impact, resultant from the incongruity of the modern apparatus and the traditional design of the LLB. These views would, again, be in the context of the modern roof scene created by Epic Studios. Views encompassing the proposal, the LBs and the LLB at No 111 would be extremely limited and thus would not result in material harm to their setting.
7. Whilst the proposed structure would be large, it would accommodate plant from two operators and I have limited evidence before me to demonstrate that it is unnecessarily extensive. Further, the positioning back away from the facades of the Epic Studios building demonstrate a largely successful attempt to screen the proposal from street level. Given the nature of the apparatus and operational requirements in regard to its positioning to provide an efficient signal I am not persuaded that any more effective measures to mitigate the visual impact of the proposal are feasible or that there is a realistic alternative

to this rooftop location. The proposal would replace existing plant in the area and is necessary to provide continuity of signal coverage.

8. My attention has been brought to other appeal decisions, the issues of which appear similar to that before me. However, these sites do not form part of the immediate context of the appeal site and I have, in any case, determined this appeal in regard to its own merits.
9. Bringing these matters together, the proposal would introduce a large structure to the roof of the Epic Studios building and this structure would intrude, with a harmful effect, in views of the skyline, including views encompassing the LLB at No 102. Notwithstanding any existing impact on these views from the existing buildings and apparatus already on their roofs, the proposal would result in harm and would, thus, neither preserve nor enhance the character or appearance of the CA. However, given the limited views of the proposal in regard to the settings of the heritage assets, and the existing views, this harm would be limited.
10. I therefore find that the development would cause material harm to the character and appearance of the area with particular reference to the City Centre Conservation Area and nearby heritage assets. The proposal would not comply with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990. It would be contrary to Policies DM3 & DM9 of the Norwich Development Management Policies Local Plan -2014- which, amongst other things, require that development proposals should respect, enhance and respond to the character and local distinctiveness of the area having regard to the character of the surrounding neighbourhood and the elements contributing to its overall sense of place, giving significant weight to the historic context of the site. The proposal would, however, accord with strategic policy 6 of the Norwich City Centre Conservation Area Appraisal - 2007- in as much as this requires that, where roof-top plant is unavoidable, it should be discreetly located.
11. Whilst predating the current National Planning Policy Framework -2019-, these policies are in close conformity with the aims of Sections 12 and 16, with which the proposal would also be in conflict, and therefore carry significant weight.
12. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. As a consequence of its design the appeal scheme would have a harmful impact on the CA insofar as it would neither preserve nor enhance the character or appearance of the CA. The proposal would not lead to the loss of any buildings that make a positive contribution to the character or appearance of the CA. As such, whilst material, albeit limited, I find that the harm would be less than substantial. Paragraph 196 of the Framework directs that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.
13. The development would, in the face of the loss of a nearby existing site, provide public benefits in terms of continuity of public access to existing signal for users of the networks which it would provide, together with access to 5G connectivity. I note that one of the service providers has been awarded a contract by the Home Office to provide future communications for the emergency services. The Government recognises and supports the economic and social benefits and importance of the development of high quality, reliable

electronic communications services. I attach significant weight to the public benefit arising from the continuation of local service provision and securing future coverage of the area for emergency services communications.

14. The proposal would result in a limited level of harm to the significance of a designated heritage asset. However, the harm must be considered in the context of the special attention I must pay to the desirability of preserving or enhancing the character or appearance of the CA. I afford considerable importance and weight to this statutory duty. This does not amount to a direction to refuse proposals that harm, and thus fail to preserve, designated heritage assets, but it provides a strong presumption in favour of preservation.
15. In applying the balancing test of paragraph 196 of the Framework, I consider that the benefits identified above substantially outweigh the harm that would arise from the proposal's impact on the character and appearance of the CA.
16. Thus, I find that the material harm that would arise from the proposal would be outweighed by its substantial public benefits. Accordingly, there is clear and convincing justification for the proposal to proceed, in accordance with the Framework.

Conditions

17. I have had regard to the planning conditions suggested by the Council. In the interests of certainty I have added the standard condition stipulating time limits and a condition upon the development requiring that it be built in accordance with the approved plans. These conditions correspond to the conditions suggested by the Council.
18. I have also imposed a condition requiring the removal of the apparatus once it is no longer required for its intended purpose. This is necessary to safeguard future visual amenity and prevent the accumulation of unnecessary visual clutter.

Conclusion

19. For the reasons given I conclude that the appeal should succeed.

I Dyer

INSPECTOR