



Appeal Decision

Site Visit made on 9 August 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2021

Appeal Ref: APP/H5390/W/21/3274647

Arthur Henderson House, Fulham Road, London SW6 4JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Telefonica UK Ltd against the decision of London Borough of Hammersmith and Fulham.
 - The application Ref 2020/02351/TEL56, dated 10 September 2020, was refused by notice dated 9 November 2020.
 - The development proposed is the installation of 6 no. antennas on new support poles, 3 no. radio cabinets at roof level, 1 no. meter cabinet at ground level, 1 no. 300mm diameter transmission dish, 15 no. RRH units, 3 no. combiners and 1 no. GPS module; extension to the handrails at roof level together with ancillary development thereto.
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Decision

1. The appeal is allowed and prior approval is granted for the installation of 6 no. antennas on new support poles, 3 no. radio cabinets at roof level, 1 no. meter cabinet at ground level, 1 no. 300mm diameter transmission dish, 15 no. RRH units, 3 no. combiners and 1 no. GPS module; extension to the handrails at roof level together with ancillary development thereto at Arthur Henderson House, Fulham Road, London, SW6 4JU in accordance with the terms of the application, Ref 2020/02351/TEL56, dated 10 September 2020, and the plans submitted with it.

Preliminary Matters

2. The application was submitted pursuant to Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The principle of development is established by the GPDO. The development is, however, subject to the developer firstly applying to the local planning authority as to whether prior approval will be required for the siting and appearance of the development.
3. I have used the description of the proposal from the decision notice as this is more succinct. I note from the appeal papers that the appellant does not raise concerns with this wording although has used a longer description in the submissions. The plans and details of the proposal are clear and therefore nothing turns on this matter.

4. I have had regard to the policies of the development plan, any related guidance and the National Planning Policy Framework¹ (the Framework) only in so far as they are material considerations relevant to matters of siting and appearance.
5. The reason for refusal does not refer to any impact of the development on the Central Fulham and Fulham Park Gardens Conservation Areas. However, as these conservation areas bound three sides of Arthur Henderson House any impact on the character and appearance of the area would also be likely to affect the Conservation Areas. The appellant has examined this matter in the appeal submissions and therefore there would be no injustice if I also look at the effect of the proposal on the adjoining conservation areas as part of the main issue.

Main Issue

6. The main issue is whether the siting and appearance of the development would be acceptable in relation to the character and appearance of the area, having regard to the impact on the setting of the Central Fulham and Fulham Park Gardens Conservation Areas.

Reasons

7. Arthur Henderson House is a prominent and sizeable, five storey building which fronts Fulham Road. It consists of a large number of flats. The brick elevations, projecting brick clad balconies and formal pattern of white framed windows combine to create a distinctive and pleasant building. The building has a flat roof and is generally taller than others in the adjoining parts of Fulham Road.
8. The frontage of Arthur Henderson House lies opposite the boundary with the Central Fulham Conservation Area (the CFCA). This Conservation Area is predominantly a residential area of terrace properties. The significance of the section of the CFCA opposite the site includes the distinctive run of Victorian brick villas, with their projecting bay windows and mature trees along some of the garden frontages. The frontage of Arthur Henderson House is experienced in conjunction with the buildings on the other side of Fulham Road and, therefore, this part of the appeal site forms part of the setting to the CFCA. There are also views of the appeal building from Durrell Road, within the CFCA, where a section of the frontage of Arthur Henderson House is framed by the terraces within this road.
9. The Fulham Park Gardens Conservation Area (the FPGCA) is again a predominantly residential area and lies to the broadly south of the appeal site. The significance of this part of the FPGCA includes the attractive three storey terrace of properties to the south west which front Fulham Road and which have a rhythmical arrangement of first and second floor windows and chimneys. To the side of Arthur Henderson House, Fulham Park Road leads onto Fulham Park Gardens and the significance of this area includes the well-articulated range of Victorian villas with landscaped frontages.
10. Arthur Henderson House is readily apparent within the Fulham Road street scene where the frontage is particularly prominent amongst the rows of other buildings. The appeal building forms part of the backdrop to this part of the FPGCA and, therefore, forms part of its setting. In Fulham Park Road there are

¹ The Framework was revised on 20 July 2021. I sought the views of the main parties on the revised Framework and taken into account any responses received.

immediate views of the side of the appeal building. In angled views from Fulham Park Gardens, again Arthur Henderson House forms part of the surroundings in which this part of the FPGCA is experienced and, therefore, this section of the appeal building forms part of the setting to this heritage asset.

11. The roof of Arthur Henderson House has a series of chimneys, railings around parts of the edge of the roof and plant rooms. Two of these plant rooms have antennas attached which jointly serve the EE and Three telecommunication networks. This equipment is positioned on the broadly northern most limb of the building furthest from Fulham Road and about half way along the more southern limb of the building which adjoins Fulham Park Road.
12. These antennas are, in part, visible from public locations around the site but in views from Fulham Road, they are set back on the roof of the building and not especially prominent. Planning permission has been granted for these antennas to be replaced to allow the networks to be upgraded. These replacement antennas would extend to about 19.85m above ground level. This would be about 5.15m above the level of the flat roof. However, it seems that the supporting columns to the antennas would extend beyond the top of the antennas and be about 21.50m to the highest point, a height of about 6.8m above the flat roof level. As a consequence of these permitted changes the roof top equipment for these network operators would become more apparent from public areas around the site.
13. The appeal proposal seeks equipment for Telefonica so that it may operate an improved 4G and new 5G telecommunications network to cover the area. This would be a new base station for this operator who also lease their service to other Mobile Virtual Network Operators. It is proposed to erect the equipment to provide the network coverage in three locations on the roof of the building. These would be in the two front corners of the building adjoining Fulham Road and at the back of the southern most limb of the building. The various associated equipment, including boxes, related housing and dishes would be reasonably low in height and set back a little way from the roof edge. Consequently, these elements of the proposal would not be especially visible from public locations around the site.
14. The main visible parts of the installations in each case would be two roof mounted antennas, supported by angled metal brackets. These would be positioned towards three corners of the roof and the railings would be extended out to this equipment. The plans specify that the top of the antennas would be about 17.20m in height above ground level and, therefore, about 2.5m in height above the flat roof. In these circumstances, these proposed additions would be lower than the approved antennas and also below the top of the chimneys.
15. The antennas proposed for the front two positions would be clearly visible from within sections of Fulham Road. However, the roof is not without some existing additions including the chimneys and railings which already provide some visual features that project above the flat roof. These corner positions would mean that the additions would be fairly noticeable, but the height and reasonably slim form of the antennas would not constitute bulky or overly dominant elements in the context of this large building and the surrounding street scene. These antennas would be finished in light grey and this would help to reduce

their visual presence when seen from some locations against the background of the sky.

16. Nevertheless, these front positioned antennas would be apparent as additions within the street scene and be experienced in the surroundings of the Conservation Areas, including from Durrell Road. The antennas while appearing visually to be fairly minor additions would be functional in appearance and have a vertical emphasis which would contrast with the general horizontal emphasis of the flat roof. Overall, the two front positions for the antennas would detract from the character and appearance of the building and, thereby, the surroundings in which it was experienced, including the setting of the two conservation areas.
17. In respect of the antennas to the southern limb of the building, they would be visible from a range of surrounding locations including from sections of the adjoining roads. However, the trees would filter some views of the antennas and they would be seen in some views in the context of the adjoining dwellings with their own vertical features such as chimneys. These antennas would be experienced visually as a small additional element to the much larger Arthur Henderson House. As a consequence, these antennas would be reasonably minor additions to the building and would not appear as bulky or excessive in height.
18. Nevertheless, this addition would, like the antennas to the front section of the building, add another functional feature to the roof and cannot be said to preserve its appearance. Consequently, while the visual impact of these antennas to this part of the roof would have a minor visual effect, that effect would be harmful. That harm would be experienced in the surroundings of the FPGCA and therefore it would harm its setting and thereby its significance as a heritage asset.
19. The proposed antennas would be physically separated from the existing and the permitted replacement telecommunications equipment on the roof of the building. The appeal proposal would add more equipment to the roof. However, the building is fairly sizeable, and with the separation of the various pieces of telecommunication apparatus, the appeal scheme would not unduly clutter the roof when considered in conjunction with the other equipment and other roof features.
20. In the light of the above analysis, I conclude that the development, in particular the antennas, would harm the character and appearance of the area and detract from the setting of the adjoining Conservation Areas. It follows that the proposal would conflict with Policies DC1 and DC10 of the Hammersmith and Fulham Local Plan (2018) which seek, amongst other things, to conserve the significance of the borough's historic environment by protecting, restoring and enhancing its heritage assets.

Other Matters

21. While there are a small number of letters of support, there have been quite a large number of objections to the proposal, including from local residents and the headteacher of the nearby school. In terms of the main issues which have been raised, I have considered the impact of the proposal on the character and appearance of the area above and I will conclude on this issue in the section below.

22. There have been objections to the development in respect of the considered adverse impact from the provision of a 5G network and the related health implications. There has also been concerns that the 5G frequency would adversely affect the health of local trees. The Framework explains the Government's policy on these matters which is supportive of the roll out of 5G and that proposals should be determined on planning grounds only. In particular, the Framework requires that decision makers do not question the need for an electronic communication system or set health safeguards different from the International Commission guidelines for public exposure.
23. The application was accompanied by a Certificate that certifies that the installation would meet with the International Commission guidelines. The information specifically explains that in coming to this determination, the cumulative effect from other installations has been taken into account. Consequently, the health concerns raised in respect of the effects of a 5G telecommunications network, including by the headteacher, residents and those parents with children attending the local school and nursery, are not planning matters of such weight that they can be considered further as part of an appeal for an individual installation.
24. There are also concerns that the development would adversely affect the living conditions and outlook of local residents. However, the effect on local residents was considered by the Council in its planning report where it was concluded that these concerns could not be justified as a reason for refusal. Based on the evidence before me and my site visit, I have found no reason to disagree.
25. Residents have also raised concerns as to whether the building would be able to accommodate the weight of the proposed equipment without causing or adding to any structural problems. The deployment of the equipment without structural harm to the building would be a matter for the installer and operator and there is no detailed technical evidence to indicate that this would not be achievable.
26. I have also noted the comments from local residents regarding the noise which is said to be associated with the existing telecommunications equipment, potentially from the fans within the cabinets. The equipment the subject of this appeal proposal would be on different parts of the roof. While I have no detailed evidence indicating that it would cause a noise issue, in any case, given the separation of the proposal from the existing equipment there is no substantive information that it would exacerbate the existing concerns.
27. Other matters which have been raised include the effect on property values, disruption during construction and maintenance, and potential for vandalism. While I have had regard to these and all the other concerns they are not issues of such weight that they materially impact on the main planning considerations.

Planning Balance

28. The effect of the proposal would be to cause harm to the setting of the two Conservation Areas and, thereby, their significance as heritage assets. The harm to the Conservation Areas as a whole, and cumulatively, would be less than substantial within the meaning of paragraph 202 of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.

29. The appellant has set out substantial supporting evidence that details the benefits that would accrue from the enhancement of the 4G signal and the provision of the 5G network to an area that is said to be presently not satisfactorily covered by the appellant's telecommunication network. I am satisfied by the evidence which demonstrates that alternative sites have been investigated and that this site appears to be the best available site to provide the required coverage.
30. The evidence also justifies why the existing equipment cannot be shared and that there is a technical requirement for the additional equipment, for a different telecommunications network, to be separated from the antennas which are already found on the building. Consequently, there is a logical explanation for the position and form of the antennas in the three locations at the edge of the roof of the building.
31. The Framework encourages the use of existing masts, buildings and other structures for new communications capability. The appeal scheme would avoid the need for a stand-alone mast and accords with the generally recommended approach of the Framework. Furthermore, the antennas would be erected to a building that has already been accepted as suitable to accommodate telecommunications equipment.
32. Much of the surrounding area falls within conservation areas and to cover this cell area it is likely that there would be some impact on these heritage assets if suitable coverage was to be provided. This scheme is proposed on a building outside the conservation areas and its height means that coverage can be provided by antennas that would extend only a fairly modest height above the roof of the building.
33. The Framework explains that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. The proposed installation would enable local residents, businesses and travellers to receive enhanced coverage from this network provider with the resulting social and economic benefits. This would be a substantial public benefit accruing from the proposal.
34. I consider that the external impact of the proposal, necessary to provide the required coverage, has been minimised by the scheme. The development would cause a reasonably minor and localised adverse effect on the street scenes and the adjoining Conservation Areas. I have come to this view, even taking into account the cumulative impact of the existing and approved telecommunication equipment. Notwithstanding the reasonably low level of harm that I have found, the Framework advises that any harm to the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the level of potential harm. However, in this case, the public benefits accruing from the proposal would be substantial and enable the surrounding urban area to benefit from a 5G signal from the appellant's telecommunication network.
35. Drawing all these matters together, the conflict with the relevant planning policies, the reasonably minor and localised harm to the setting of the conservation areas and the visual impact to the immediate area in general should be attributed great weight. However, I consider that this harm is outweighed by the circumstances of this case and the substantial public

benefits which would result from the proposal. Accordingly, I consider that material considerations indicate that the decision should be made otherwise than in accordance with the development plan such that the planning balance falls in favour of prior approval being granted.

Conclusion

36. For the reasons set out above, I conclude that the appeal should succeed and prior approval should be granted.

David Wyborn

INSPECTOR