
Appeal Decisions

Site visit made on 27 October 2021

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 12th November 2021

Appeal Ref: APP/L5810/W/21/3271241 (Appeal A) **Lichfield Court, Sheen Road, Richmond TW9 1AU**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mobile Broadband Network Ltd against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 20/1704/LBC, dated 22 June 2020, was refused by notice dated 17 September 2020.
 - The works proposed are the installation of 4 No antenna apertures and new supporting apparatus; plus 2 No antenna apertures to be mounted onto existing steelwork; an internal equipment upgrade; and ancillary development thereto. Four No antennas and a free-standing frame to be removed.
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Appeal Ref: APP/L5810/W/21/3271236 (Appeal B) **Lichfield Court, Sheen Road, Richmond TW9 1AU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mobile Broadband Network Ltd against the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 20/1703/FUL, dated 22 June 2020 was refused by notice dated 17 September 2020.
 - The development proposed is the installation of 4 No antenna apertures and new supporting apparatus; plus 2 No antenna apertures to be mounted onto existing steelwork; an internal equipment upgrade; and ancillary development thereto. Four No antennas and a free-standing frame to be removed.
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Decision Appeal A

1. The appeal is allowed and listed building consent is granted for the installation of 4 No antenna apertures and new supporting apparatus; plus 2 No antenna apertures to be mounted onto existing steelwork; an internal equipment upgrade; and ancillary development thereto. Four No antennas and a free-standing frame to be removed at Lichfield Court, Sheen Road, Richmond TW9 1AU in accordance with the terms of the application Ref 20/1704/FUL dated 22 June 2020 subject to the conditions contained within the attached schedule.

Decision Appeal B

2. The appeal is allowed and planning permission is granted for the installation of 4 No antenna apertures and new supporting apparatus; plus 2 No antenna apertures to be mounted onto existing steelwork; an internal equipment

upgrade; and ancillary development thereto. Four No antennas and a free-standing frame to be removed at Lichfield Court, Sheen Road, Richmond TW9 1AU in accordance with the terms of the application, Ref 20/1703/FUL, dated 22 June 2020, subject to the conditions contained within the attached schedule.

Preliminary Matter

3. As the proposal is in a conservation area and relates to a listed building I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issue Appeal A

4. The main issue is whether or not the proposal would preserve the Grade II listed building, Lichfield Court, and any of the features of special architectural or historic interest that it possesses.

Main issue Appeal B

5. The main issue is whether or not the proposal would preserve the Grade II listed building, Lichfield Court, and any of the features of special architectural or historic interest that it possesses and the extent to which it would preserve or enhance the character or appearance of the Central Richmond Conservation Area (CA).

Reasons

6. As the main issues are similar in each appeal with the addition of the CA issue in appeal B, my reasoning will be combined and I will highlight where it relates to only one of the appeals.
7. The appeal building is a large rectangular Grade II listed seven storey Art Deco style block of flats, built between 1934 and 1935 by Bertram Carter and Slood. The building is flat roofed and has red brick elevations and concrete slabs that project as balconies with white painted concrete balcony fronts. The corners of the building are curved, with curved windows, and the ends of the extending balconies are also curved. With the exception of five flats that have UPVC windows, the windows are Crittal metal frames with a strong horizontal glazing pattern.
8. The appeal building, along with its smaller neighbour (both denoted as Lichfield Court) are described in the CA study as being the most distinctive of the residential blocks on the north side of Sheen road. The Listing Description describes the appeal building as being *a block of small flats of exceptional quality and completeness, with elaborate ribbed mouldings and Art Deco details*, and also records that it is noted for its convenience to the town centre and for commuting by train. To my mind the special interest of the building derives from its design, its prominent location, and its historic association with the development of the town.
9. Insofar as relevant to the proposal, the flat roof form is typical of the architecture of the time and remains largely intact, despite hosting several electronic communications masts and associated apparatus operated by the appellant and also by other licensed operators. The appeal proposal seeks to

upgrade the appellant's shared base station in order to introduce new 5G technology.

10. To do this four No existing antennas mounted off the plantroom on the northeast side of the roof would be replaced with four No new antenna apertures, two of which would be on new support poles. There would also be two new antenna apertures mounted on the wall of the plantroom on the southwest side of the roof. Extra handrailing would also be added to the main roof level by the antenna locations and on top of the southwestern plantroom.
11. There are three distinct areas from which the existing apparatus can be seen. From Sheen Road the apparatus at the southwest can be seen, but only from a short length of the road due to the presence of the Waitrose building. From Lichfield Gardens the northeast apparatus can be seen over the rooftops of the adjacent three storey properties and this apparatus can also be seen from Drummond Place.
12. As demonstrated above, the number of locations from where the apparatus would be immediately visible is limited, and furthermore the appeal building is tall and views of the proposed apparatus would be relatively distant, requiring a distinct upward looking motion.
13. Nonetheless, the proposed apparatus would be slightly taller and bulkier than that which currently exists and extra fencing is proposed. This would detract somewhat from the architectural integrity and clean Art Deco design of the appeal building thereby causing limited harm to its significance, and paragraph 199 of the National Planning Policy Framework (the Framework) makes clear that great weight should be given to the conservation of a heritage asset. The harm that I have identified would however be less than substantial as described in paragraph 202 of the Framework.
14. I now turn to the question relating to appeal B and whether or not the proposal would preserve or enhance the character or appearance of the CA. The appeal building lies on what is classified as an edge of centre street and the Central Richmond, Richmond Green and Richmond Riverside Conservation Area Study records that the two Art Deco blocks that comprise Lichfield Court are the most distinctive of the four blocks that date from when Sheen Road was widened. As a result of the importance of Lichfield Court to the CA as a whole, and having found that the proposal would cause less than substantial harm to the Grade II listed building, then there would, to my mind, be some limited harm to the CA also. This too would be less than substantial.
15. In respect of Appeal B therefore there would be conflict with policies LP 1 and LP 3 of the London Borough of Richmond-upon-Thames Local Plan 2018. The former of these requires that development respects, contributes to and enhances the local environment and character, whilst the latter requires development to conserve and, where possible, take opportunities to make a positive contribution to the historic environment of the Borough.
16. Paragraph 202 of the Framework also makes clear that where less than substantial harm to a heritage asset has been identified then such harm has to be balanced against the public benefits of the proposal.
17. The proposed apparatus is necessary to provide the infrastructure for the next generation of mobile internet connectivity. This offers faster speeds and more

reliable connections on smartphones and other devices, with greater capacity and lower response times. I also note that the appellants have been awarded a contract by the Government to provide the new Emergency Services Network (ESN) that will replace the current system.

18. The Framework at paragraph 114 makes clear that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Paragraph 115 of the same document indicates that, whilst the number of communication masts and the sites for such installations should be kept to a minimum, the use of existing masts and buildings should be encouraged. This would, to an extent, be the case here. Accordingly, I afford substantial weight to the public benefits of the proposal.

Other matters

19. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to the Council which confirms that the proposal has been designed to comply with the guidelines published by the Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
20. The Council have made me aware of two previous appeal decisions where the Inspectors dismissed the appeals. However, the first appeal¹ related to a new 15m high monopole which was thicker and considerably taller than other vertical elements in the street scene. The second appeal² concerned a 12.5m pole and associated equipment in an exposed location. To my mind neither of these other decisions can be taken as a compelling precedent for dismissing the appeals before me.

Planning balance and conclusions

21. Although I have found less than substantial harm to the significance of the listed building I have found that substantial weight should be afforded to the public benefits. Accordingly, I consider that Appeal A should be allowed.
22. Similarly I have found harm to the CA and limited conflict with policies LP 1 and LP 3. However, the material considerations regarding public benefits set out above would support a finding contrary to the development plan in this case. Therefore Appeal B is allowed.

Conditions

23. I have considered both the wording and grounds for the conditions suggested by the Council in accordance with the tests set out in the Framework. For Appeal A, in addition to the standard time limit condition, conditions requiring the removal of redundant equipment, the clean-up of graffiti and the strict use of matching materials would ensure the appearance of the works and limit harm in the longer term.

¹ APP/L5810/W/20/3264789

² APP/L5810/W/20/3264935

24. For Appeal B, in addition to the standard time limit condition, a condition requiring the development to be carried out in accordance with the plans is necessary to ensure that they are implemented as approved. Further conditions requiring the removal of redundant equipment, the clean-up of graffiti and the strict use of matching materials would ensure the appearance of the works and limit harm in the longer term.

John Wilde

INSPECTOR

Schedule of conditions Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) In the event that the Mobile Broadband Network Ltd scheme ceases or alters in a manner so as to leave this equipment without function, then the equipment hereby approved shall be removed in its entirety and the building made good within 3 months of the cessation or alteration of the use of the equipment.
- 3) The applicant and/or future owner of the equipment hereby approved shall ensure that any graffiti or other similar defacement, directly associated with the equipment, is removed within 7 days of being notified of it by the Local Planning Authority.
- 4) No new external finishes (including fenestration), including works of making good, shall be carried out other than in materials and colours to match the existing associated equipment which the development hereby approved would replace.

Schedule of conditions Appeal B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) In the event that the Mobile Broadband Network Ltd scheme ceases or alters in a manner so as to leave this equipment without function, then the equipment hereby approved shall be removed in its entirety and the building made good within 3 months of the cessation or alteration of the use of the equipment.
- 3) The applicant and/or future owner of the equipment hereby approved shall ensure that any graffiti or other similar defacement, directly associated with the equipment, is removed within 7 days of being notified of it by the Local Planning Authority.
- 4) No new external finishes (including fenestration), including works of making good, shall be carried out other than in materials and colours to match the existing associated equipment which the development hereby approved would replace.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans and documents, where applicable: 002, 100, 150, 215, 265 and 330