



Appeal Decision

Site visit made on 19 October 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Appeal Ref: APP/X5990/W/21/3272709

Charfield Court, 2 Shirland Road, London W9 2JN

- 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) (GPDO).
 - The appeal is made by Cornerstone and Telefonica UK Limited and Vodafone Limited against the decision of City of Westminster Council.
 - The application Ref 20/05279/TELECOM, dated 20 August 2020, was refused by notice dated 8 October 2020.
 - The development proposed is described as: 'the installation of 6no. 5m support poles (22.6m AGL) supporting 6no. antennas, 4no. cabinets and 1no. cabinet at
 - ground level and ancillary works thereto'.
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Decision

1. The appeal is allowed, and approval is granted under the provisions of the GPDO, for the proposed development to install 6no. 5m support poles (22.6m AGL) supporting 6no. antennas, 4no. cabinets and 1no. cabinet at ground level and ancillary works thereto at Charfield Court, 2 Shirland Road, London W9 2JN in accordance with the terms of the application, Ref 20/05279/TELECOM dated 20 August 2020, subject to the standard conditions set out in the GPDO and the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 100A; 200A; 201F; 300B; 301A; 302B; 303A; 304D; 305A; 306B and 307A.
 - 2) Construction works shall take place only between 08:00hrs to 18:00hrs Monday to Friday; 08:00hrs to 13:00hrs on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.

Preliminary Matters

2. For clarity and precision, I have taken the name of the appellant from the appeal form.
3. The appellant has provided additional drawings and a photomontage in support of their submission. In accepting this information, I have applied the 'Wheatcroft Principles' (Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]). These details do not evolve the scheme, but provide additional clarification on the proposed development. In this instance, the additional details do not materially alter the nature of the application and consequently do not potentially prejudice the interests of interested parties. Additionally, in the absence of any

substantive evidence to the contrary, I find these additional details address refusal reason no. 2 on the Council's decision notice.

4. The provisions of the GPDO, requires the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
5. The relevant provisions of the GPDO do not require regard to be had to the development plan. Accordingly, I have had regard to the policies of the development plan only in so far, as they are a material consideration, relevant to matters of siting and appearance.
6. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework). Additionally, the London Plan 2021 (LonP) was published after the Council made its decision. In both cases, the main parties have had an opportunity to comment on the significance of the changes.
7. Since the Council made its decision on the application, which is subject to this appeal, the Council's City Plan 2019 - 2040 (CP) was adopted on 21 April 2021. Consequently, the policies contained within the Westminster City Plan 2016 and the Council's Unitary Development Plan 2007 have been superseded. I am required to determine this appeal on the basis of the development plan which is in force at the time of my decision.
8. The Council have confirmed in correspondence received that they now rely upon CP Policies 19, 38, 39 and 40. Furthermore, whilst not referenced on the Council's decision notice, LonP Policy HC1 has been cited by the Council in its submission. The appellant has had an opportunity at the final comments stage to provide their views on the relevance of these new policies. This appeal has therefore had regard to the above CP and LonP Policies in its determination.

Main Issue

9. The main issue of this appeal is the effect of the proposed development on the character and appearance of the appeal site and surrounding area, including the setting of a designated heritage asset (Maida Vale Conservation Area).

Reasons

10. The proposed development follows from a previous scheme which is considered by the appellant to be more sensitive, through a reduction in the amount of equipment proposed. In this instance, the site is located on the roof of a stairwell serving a 6no. storey residential block of flats. Even though the block of flats comprises 6no. storeys in height, due to its notable width along Shirland Road it has a horizontal emphasis.
11. There are 2no. stair wells that serve the residential block, which extend above the main roof height and serve to segment the development visually into 3no. sections, albeit connected. The site is located on the first stairwell that is encountered when travelling along Shirland Road from Formosa Street.
12. The installation would provide coverage, including 5G, for the surrounding area, which would be of significant benefit to its users. The proposed development would contribute to the delivery of advanced, high quality and

reliable communications infrastructure, which is recognised as being essential for economic growth and well-being in paragraph 114 of the Framework.

13. I have had regard to the urban environment within which the appeal site is located, including the presence of the Maida Vale Conservation Area (MVCA), which the host property is located outside. However, the boundary of the MVCA runs in front of the host property and extends along the opposite side of Shirland Road from Formosa Street to Braden Street, when both sides of Shirland Road are then encapsulated within the MVCA.
14. A section of the MVCA was first designated in 1968, which has then been extended on a number of occasions in later years. The significance of the MVCA are the Grand Union Canal and Regent's Canal, with the closely relating layout of the architecturally significant avenues and streets. The tree lined streets, vistas and major private amenity spaces collectively contribute to the verdant character of the area, which in turn enhances the character of the surrounding buildings and their layout.
15. I find that the site is not an unsuitable location in principle for the siting of telecommunications equipment. I accept that the proposed development would have some impact on the appearance of the host property and that it would be visible from areas within the public realm, including the MVCA, particularly from Shirland Road, Formosa Street, Blomfield Road and Bristol Gardens. However, telecommunication structures are common features in built up areas and the stairwells already have external ladders, and the stairwells and the main roofs have railings installed.
16. Thus, whilst being visible, given the design and appearance of the installation, it would not be highly noticeable or constitute an incongruous or stark feature on the host property or within the surrounding area. I agree that the heritage asset is close to the site and thus, the site is within the setting of the heritage asset. Paragraph 199 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 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of the heritage asset or from development within its setting and that this should have clear and convincing justification.
17. I am mindful that heritage assets, such as conservation areas, are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Therefore, due to the extent of the proposed development and its overall effect, it would not harm the setting of the MVCA. Even if, I did find harm, it would be limited and for the purposes of the Framework, it would amount to 'less than substantial harm' to the significance of the MVCA.
18. Under such circumstances, paragraph 202 of the Framework advises that any harm should be weighed against the public benefits of the proposal. In this instance, the proposed development is required to address capacity issues in the network. A sequential approach has been undertaken in the site selection process. The submitted Site Specific Supplementary Information confirms the alternative options which have been explored, which clearly and convincingly, demonstrate that there are no suitable alternative sites available. This is not disputed by the Council. Thus, I am satisfied that undertaking the proposed

development at this site is the only way to achieve the identified economic and social benefits, as advocated in the Framework. Consequently, in this instance, the respective public benefits of the proposed development would outweigh any harm to the setting of the MVCA in any event.

19. For the above reasons, I therefore conclude that the proposed development would not harm the character and appearance of the appeal site and surrounding area, and would preserve the setting of the nearby MVCA. Therefore, whilst not determinative, the proposed development would accord with the heritage, design, character and appearance aims of CP Policies 19, 38, 39, 40; LonP Policy HC1 and the requirements of the Framework.

Conditions

20. Beyond the standard conditions which are imposed by the GPDO, it is reasonable and necessary to impose a condition relating to the approved plans for certainty. It is also reasonable and necessary to impose a condition relating to working hours. However, as it is not reasonable or necessary, I have amended the suggested wording of this condition, as it is highly unlikely on the basis of the evidence that such elements as pile driving, excavation and demolition work would be required during the installation of the proposed development.
21. Additionally, I have not included a condition surrounding materials, as it is neither reasonable or necessary given the nature of the development proposed and the details already provided within the application.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

W Johnson

INSPECTOR