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# Appeal Decision

Site visit made on 14 February 2022

**by Martin Allen BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 March 2022**

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**Appeal Ref: APP/X5990/W/21/3284041**

**Naylor House, 56 Bruckner Street, London W10 4NU**

- 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 appeal is made by Cornerstone Vodafone and Telefonica against the decision of City of Westminster Council.
  - The application Ref 21/00792/TELCOM, dated 9 February 2021, was refused by notice dated 1 April 2021.
  - The development proposed is the installation of 3no. 3.00m support poles (30.10m above ground level) supporting 4no. antennas, 1no. 5.50m support pole (32.60m AGL) supporting 2no. antennas and 2no. 300mm dishes, installation of 3no. equipment cabinets and ancillary works thereto.
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## Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of the installation of 3no. 3.00m support poles (30.10m above ground level) supporting 4no. antennas, 1no. 5.50m support pole (32.60m AGL) supporting 2no. antennas and 2no. 300mm dishes, installation of 3no. equipment cabinets and ancillary works thereto at land at Naylor House, 56 Bruckner Street, London, W10 4NU in accordance with the terms of the application Ref 21/00792/TELCOM, dated 9 February 2021, and the plans submitted with it including Drawing Numbers 100 Rev A, 200 Rev A, 201 Rev A, 300 Rev B, 301 Rev B, 302 Rev A, 303 Rev A, 304 Rev A, 305 Rev A, 306 Rev A and 307 Rev A.

## Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require 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.

## Planning Policy

3. Part 16 of the Order establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.

4. Nevertheless, policies S25 and S28 of the Westminster City Plan (2016), policies DES1, DES6 and DES9 of the City of Westminster - Unitary Development Plan (2007), as well as policies 19QA, 38, 39 and 40 of the City of Westminster - City Plan (2021) are material considerations as they relate to issues of siting and appearance. In particular, they seek to conserve the historic environment including the setting of conservation areas, promote a high standard of design and prevent inappropriate additions at roof level. Furthermore, telecommunications infrastructure is supported with benefits weighed against impacts on character and heritage assets.
5. Similarly, the National Planning Policy Framework is also a material consideration, and this includes a section on supporting high quality communications.

### **Main Issue**

6. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, bearing in mind the location outside, but near to, the Queen's Park Estate Conservation Area.

### **Reasons**

7. Naylor House is a large, eight storey block of flats surrounded by buildings that are noticeably lower in their height, ranging from two-storey dwellings to five-storey buildings. As a result, the appeal building is a dominant feature in the area.
8. The appeal scheme seeks to erect six antennas at the level of the eighth storey, two to the north elevation and four to the south. While the additions are likely to be clearly visible in views of the building, they would be viewed against the backdrop of the building itself from many locations, particularly those at a distance. Where visible against the sky rather than the building, they would be viewed as small, insignificant features that do not protrude above the overall height of the building or beyond the extent of the elevations.
9. I observed there to be television aerials and access ladders present at the roof level of the building and as such the building is not clutter free. This is also the case at the lower storeys of the building where aerials and satellite dishes were also visible.
10. Given the height at which the apparatus would be viewed, it would not be an intrusive or harmful feature on the building, or to the surrounding area. It would be viewed within the context of a large, imposing building that is not free from existing external paraphernalia.
11. The scheme also proposes ancillary development, such as railings and equipment cabinets. Given my findings above, I also consider that these would be minor visual elements, which to a large degree would be screened, and that they would also not be harmful additions.
12. I am conscious that the site lies near to the Queen's Park Estate Conservation Area (the CA). However, the intervening distance and the difference in scale of the appeal building and those in the CA provide a level of distinction between the two locations. This, together with my findings above that the scheme would not result in any harmful visual effect, means that there would also be no harm to the setting of this designated heritage asset.

13. Accordingly, in this case, I find the siting and appearance of the proposed development to be acceptable.

### **Other Matters**

#### *Health*

14. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International 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.

#### *Alternative sites*

15. A contention is made that other sites are available for the proposed development within the local area. However, I have not been provided with the details of any such locations. In any event, as I have found the proposed siting and appearance of the development to be acceptable in this case, this is not a matter that I need to consider further.

### **Conditions**

16. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

### **Conclusion**

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

*Martin Allen*

INSPECTOR