



Appeal Decision

Site visit made on 24 October 2023

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th February 2024

Appeal Ref: APP/U2750/W/23/3327746

Cathedral Car Park, St Marygate, Ripon HG4 1LX

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by EE Limited against the decision of North Yorkshire Council.
 - The application Ref ZC23/02124/PNT56, dated 5 June 2023, was refused by notice dated 28 July 2023.
 - The development proposed is Mast and associated apparatus.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 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.
3. The principle of development is established by the GPDO 2015, and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. I have had regard to the policies of the development plan and the revised National Planning Policy Framework (the Framework), as published on 19 December 2023, in so far as they are a material consideration relevant to matters of the proposal's siting and appearance.
4. In relation to nearby designated heritage assets, the submitted evidence confirms that the appeal site is located in the vicinity of the Grade I listed Ripon Minster Cathedral Church of St Peter and Wilfrid (Ripon Cathedral)¹; and the Grade II* listed The Court House² and The Old Deanery³. As this is an application for prior approval and not an application for planning permission, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), in relation to listed buildings, does not apply.
5. The site is also located within close proximity of Ripon Minster Close⁴, a scheduled monument.

¹ List Entry Number: 1150164.

² List Entry Number: 1174464.

³ List Entry Number: 1150165.

⁴ List Entry Number: 1003148.

6. The appeal site lies within the Ripon Conservation Area (the CA). There is a duty imposed by Section 72(1) of the Act requiring decision makers, in the exercise of planning functions, to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area.
7. The appeal is also immediately adjacent to the World Heritage Site Buffer Zone, that seeks to protect views to and from the Studley Royal Park including the ruins of Fountains Abbey World Heritage Site (WHS)⁵ which lies to the south west of Ripon.

Main Issue

8. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the surrounding area, with particular regard to the effect on nearby designated heritage assets, including setting.

Reasons

9. The appeal site lies at the north end of Cathedral Car Park adjacent to a modern maintenance building. The site is located close to a gap in a line of trees defining the northern edge of the car park. A thicker belt of trees lies to the east. The car park slopes down from the appeal site towards the stone boundary wall of The Courthouse. The wall is visible across the car park from the appeal site, whilst the grounds of The Courthouse are visible through the trees within the gardens here. The upper sections of Ripon Cathedral, including its towers, remain a highly prominent feature of the streetscene, where it is seen extending above the trees growing within The Courthouse grounds.
10. The higher ground at Moss Arcade to the west of the appeal site consists of a modern townscape comprising of retail development, associated parking, a bus station and road infrastructure including numerous tall lighting columns. Nonetheless, the adjacent, lower, Cathedral Car Park and the area of the appeal site is distinct from Moss Arcade, being comparatively devoid of tall man-made structures, surrounded by mature trees and having clear views towards the Cathedral, Grade II* listed The Courthouse, and the footpath links to the precinct beyond.
11. Ripon Cathedral, a Grade I listed building, is a designated heritage asset of the highest significance. It is intrinsically linked to the development of Ripon having its origins as St Wilfrid's monastery in circa 660. Today it predominantly comprises the church of a medieval college with post-medieval alterations and extensions. A building of considerable scale and height, it has been a powerful presence and a focal landmark within the street scene for many centuries. As an outstanding example of the Early English style, the west front, in particular, comprising its two towers, is visible across the city and beyond. These architectural and historic interests positively contribute to the building's heritage value.
12. The Cathedral stands within what was once part of a much larger ecclesiastical precinct. Pertinent to the appeal, the surrounding street layout, area of the former precinct and the open spaces to the north provide an immediate setting within which to experience the Cathedral, which is integral to and contributes in a meaningful and positive way to the building's special interest and

⁵ List Entry Number: 1000094.

- significance. This area is characterised by open, verdant spaces containing prestigious buildings, typically with some ecclesiastical association.
13. To the north of the Cathedral is the Grade II* listed The Courthouse which dates to 1830. This single storey ashlar block building was formerly used as a Quarter Sessions Court House and is now a museum. It faces towards Minster Road and the Cathedral within an open setting, set back from the road edge within its own gardens. Based on what is before me, its significance, insofar as it relates to this appeal, is primarily derived from it being a well-preserved example of a purpose built nineteenth century courthouse. Important contributors in these regards are its neoclassical architectural detailing, its open verdant setting, and its close relationship with the Cathedral and other public and ecclesiastical buildings in the historic core of the city. The gardens around The Courthouse extend to the rear to Cathedral Car Park which is linked by a footpath running adjacent to The Courthouse.
 14. To the east of the Cathedral and within the precinct lies the Grade II* listed The Old Deanery, now a hotel. This was constructed of stone in the mid seventeenth century as a H-plan deanery house, with alterations in the late seventeenth and nineteenth centuries. It stands in its own grounds with a walled garden to the rear. Based on the limited information before me, the significance of this building, insofar as it relates to this appeal, derives from its age, the legibility of its development over time, and the close visual and historic relationship with the Cathedral and wider precinct forming its setting.
 15. The appeal site and car park form part of the surroundings in which the Cathedral, The Courthouse, and The Old Deanery are experienced. The assets' settings, generally contribute to in a positive way to their special interest and significance. The open nature of the car park/appeal site provides clear linkages through to the Cathedral and wider precinct, and thus the ability to appreciate their high status and heritage merit.
 16. The aforementioned listed buildings are all located within the scheduled monument of Minster Close. It forms the nucleus of the monastery founded by St Wilfrid in the seventh century. The boundaries of this monument are marked in part by a medieval wall and extends over much of the precinct, extending over the grounds of The Courthouse and abutting the edge of the Cathedral Car Park. Whilst I am provided with very little information in this respect, the significance of the asset insofar as it relates to this appeal arises from the presence of the above ground walls, the historic relationship with the Cathedral and the high potential for below ground remains of considerable age. Furthermore, the setting of this asset, lying within the historic core of the city, contributes in a positive way to its significance.
 17. Within its immediate setting the Cathedral Car Park form part of the surroundings in which the scheduled monument is experienced. Lying at the opposite end of the car park, the area covered by the schedule is visible from the appeal site. The open nature of the appeal site and car park ensures that these views are generally uninterrupted, allowing the ability to appreciate the scheduled monument's significance from it.
 18. The CA extends over the historic core of the city taking in the Cathedral and the surrounding precinct, the medieval city around the Market Place, the fine brick terraces and villas of the Victorian suburbs and the parks and sports

grounds around the Spa Gardens. It therefore has a varied character and appearance.

19. The focus of the CA is the Cathedral which is the most important and most visible building in Ripon, dominating the city and the surrounding countryside. The Cathedral Car Park lies within 'Area B' (Medieval City around Market Place with High St Agnesgate) as set out in the Ripon Conservation Area Appraisal (2009) (the CAA). Nevertheless, the car park is bounded by 'Area A' (Cathedral Precinct & the early settlement) to the south and there is intervisibility between the two areas.
20. Whilst Area B tends to consist of a relatively tight-knit urban form with buildings in close proximity to one another, Area A is more open, characterised by large gardens and open spaces bounded by high stone and brick boundary walls defining the boundaries of buildings within the Cathedral precinct. These buildings are typically well separated from each other and are generally only partially visible from public viewpoints. Trees are a consistent feature of the streetscene contributing to an open, verdant character. As set out in the CAA, the main car park off St Marygate is broken up by tree and shrub planting, and the changes of level assist in the screening of vehicles.
21. Pertinent to the appeal, the character and appearance and thus the special interest and significance of the CA principally stems from the historic importance and consistency of views of the Cathedral and its visual dominance within the streetscene, the area's open verdant character and the unique proliferation of a number of historically associated ecclesiastical and public buildings within the wider precinct and beyond. Together, these contribute to a distinctive townscape with a high architectural and historic interest. Whilst a modern car park, the appeal site nonetheless forms part of how the asset is experienced and the verdant character and historic views contribute positively in that respect.
22. Also of relevance is the World Heritage Site of Studley Royal Park including the ruins of Fountains Abbey World Heritage Site. Designated for its spectacular eighteenth century landscape and water garden, integrating the ruins of Fountains Abbey, Studley Royal is considered an outstanding example of 'English' garden style. The abbey itself dates from 1132 and is also a scheduled monument. A Buffer Zone seeks to protect the wider visual setting of the WHS and includes the important vista line from the main deer park avenue north east to the Cathedral. This Buffer Zone extends across the Cathedral Car Park immediately adjacent to the appeal site. The Council refers to the appeal site being within the setting of the WHS. Given the appeal sites proximity to the Buffer Zone, the Cathedral and the Cathedral's integral relationship with the setting of the WHS, I am satisfied that the appeal site lies within the extended setting of the asset. Nonetheless, as a car park located beyond the cathedral with no views or discernible historic link with the WHS, its contribution to the outstanding universal value of the asset is negligible.
23. In assessing the effects of the proposal, I am mindful of the advice set out in the Framework which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Mindful of the Grade I and Grade II* status of the listed buildings as assets of the highest significance, the more important the asset, the greater the weight should be. Moreover, any harm to,

or loss of, the significance of a designated heritage asset from development within its setting, should require clear and convincing justification.

24. I accept that there are operational requirements and technical constraints that dictate the height and form of the monopole. Nevertheless, at 15 metres in height, the monopole would be markedly taller than other manmade features within the immediately surrounding area. Its vertical projection well above the height of the adjacent building and those beyond, would cause it to be an unduly prominent feature in the townscape. Whilst the appeal site lies close to a tree belt, the proposed monopole would actually lie in a gap between trees and therefore there would be little screening to the immediate structure or at low levels. Furthermore, the monopole would project above the height of the trees, and, at times when they are not in leaf, the prominence of the structure in this otherwise open setting would only increase. Overall, the proposal would result in the construction of an unduly conspicuous and detrimentally discordant feature which is wholly at odds with the type and scale of surrounding street furniture and development.
25. As set out above, the appeal site is within a location that is highly sensitive to change with potential to affect multiple heritage assets of the highest significance. In that regard, the appellant has provided a Photomontage Report⁶ showing the proposed monopole in views in the context of the assets.
26. The proposed monopole would lead to an imposing vertical presence in an otherwise relatively open location within the setting of the Cathedral. As set out in the Council's Heritage Management Guidance SPD⁷, anything that impacts the skyline or horizon is likely to affect the heritage asset's setting. The two structures would be seen in the same context from the car park in an area where vertical structures are less prevalent, and in views from Moss Arcade. The monopole would impact on the skyline here, extending above the height of the nearby trees. The presence of such an unduly incongruous feature of considerable height in the same context as the Cathedral, would visually compete with its height, disrupting its dominance in these views, adversely affecting its setting and thus harming its significance. I am mindful that many of those using the Cathedral Car Park are likely to be visiting the Cathedral and historic precinct, and the presence of this prominent and discordant feature would adversely affect the ability to appreciate the significance of that asset.
27. Furthermore, whilst not shown on the Photomontage Report, the monopole would be seen walking from the direction of the Cathedral along the footpath adjacent to The Courthouse. This visibility is likely to increase at times when trees are not in leaf. Moreover, notwithstanding the assertions in the Photomontage Report, the monopole would also be visible as an incongruous man-made structure of significant height in views from outside the Cathedral on Minster Road, looking between Grade II* listed The Courthouse and The Old Deanery and intruding into their setting, as shown on Fig. 7 and Fig. 11 of the heritage impact assessment. Whilst I accept that the intervening vegetation here would, to a degree, mitigate these views, this would be only for the parts of the year when they are in leaf, outside of which time the visibility will increase. Overall, this would, albeit in a small yet discernible way, diminish the value of these associated listed buildings. In that regard the proposal would be

⁶ Telecommunications Development Photomontage Report by Entrust Planning and Environmental, dated 16 March 2023.

⁷ Harrogate District Heritage Management Guidance - Supplementary Planning Document (2014).

harmful to the settings of the Cathedral, The Courthouse, and The Old Deanery, to the detriment of their significance.

28. Whilst located within a car park, for the reasons set out above, the introduction of an excessively tall, modern and incongruous structure within the setting of the scheduled monument would, albeit to a limited degree, erode its historic surroundings and diminish the ability to appreciate the asset in wider views. I accept that trees mitigate these views to an extent, however intervisibility between the scheduled monument and the proposed monopole would increase at times when the trees are not in leaf and the harm would be more apparent. This harm to its setting would thus undermine the significance of the heritage asset.
29. Moreover, the disruption of the dominance of the Cathedral in views from Cathedral Car Park and the visibility of such an incongruous feature in relatively open surroundings from The Courthouse and in views from the historic precinct between The Courthouse and The Old Deanery, as well as the scheduled monument, would inevitably harm the character and appearance of the CA to the detriment of its significance. This would be contrary to the requirements of section 72(1) of the Act.
30. The Council's report or reasons for refusal do not highlight how the proposal would harm those elements which contribute to the outstanding universal value of the WHS. However, whilst my above assessment finds harm to the heritage assets that lie within the Buffer Zone, I am not convinced that, based on the proposal's width, height, siting to the north of the Cathedral, and the intervening distance and topography, that the proposal would be visible in views to or from the WHS. In that regard the proposal would not intrude in any discernible way to this important vista protected by the Buffer Zone or the wider setting of the WHS. It would therefore not be harmful to its outstanding universal value. Nevertheless, this is a neutral finding and weighs neither for nor against the proposal.
31. The Framework sets out that, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Due to the extent of the proposal's effects, I find that the harm to the significance of the Cathedral, The Courthouse, The Old Deanery, the scheduled monument of Ripon Minster Close and the CA, individually and collectively, would be less than substantial but, nevertheless, of considerable importance and weight. The Framework advises that this should be weighed against the public benefits of the proposal.
32. The proposal arises from the need for the operators to vacate an existing mast on the rooftop of the Cathedral. The appellant asserts that an alternative site therefore needs to be utilised to continue to provide 3G/4G coverage for the general area and to provide for the Emergency Services Network (ESN). The proposed replacement installation will form part of the ESN for all of the emergency services operating within this area.
33. It is understood that 27 alternative sites have been explored (28, including the existing Cathedral site) but subsequently discounted for a variety of reasons. However, the information as to the extent of their unsuitability is limited, particularly in relation to the proposed rooftop sites and the extent of the coverage that could be achieved from them. Furthermore, other sites are discounted due to being 'more visually sensitive' than the appeal site. Whilst I

accept visual sensitivity could take multiple forms, the appeal site lies within the setting of multiple heritage assets of the highest significance and as such is very sensitive to any change. In particular site No 9, is discounted partly because it lies within the middle of the conservation area. Given the high sensitivity of the appeal site, which is also within the conservation area, it is unclear why that alternative site is considered to be more sensitive.

34. I have had regard to the support in the Framework for high quality communications and infrastructure. In that regard, the proposal would upgrade operator coverage in this area, which would maintain existing, as well as provide improved, mobile network coverage in the area, whilst also supporting the emergency services through the ESN. This would potentially generate economic and social benefits that would flow to the wider public and attracts substantial weight in favour of the proposal and appeal.
35. I accept that there have been previous refusals in the past, notably at the Ripon Rugby Club in 2019⁸ and at Mallorie Park Drive⁹, however I am provided with little detail of either application which limits the extent to which I can take these into account.
36. Nevertheless, I am mindful that heritage assets 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, as set out at Framework paragraph 195. Therefore, although the Government aims to facilitate the growth of new telecommunication systems and digital technologies, it also places great emphasis on protecting designated heritage assets and their settings, particularly those of the highest significance such as Ripon Cathedral, The Courthouse and The Old Deanery.
37. I acknowledge that the appellant's list of alternatives referred to above meets the basic requirements of the Framework in terms of exploring the possibility of erecting antennas on an existing building, mast or other structure. However, given the sensitivity of the site in relation to adjacent designated heritage assets and the requirement of the Framework to provide clear and convincing justification for any harm to their significance, for the reasons set out above, I find that assessment to be limited in detail. Moreover, there is a lack of compelling evidence that the alternative sites are less sensitive in heritage terms.
38. Overall, the considerable importance and weight I attach to the identified harm would not be outweighed by the substantial weight I ascribe to the public benefits which would accrue from the proposal. Therefore, whilst I acknowledge the benefits of the scheme in general terms, it has not been robustly demonstrated that the circumstances in this particular instance justify allowing the scheme.
39. I conclude that the siting and appearance of the proposed monopole mast would be significantly harmful to the character and appearance of the surrounding area, with particular regard to the effect on nearby designated heritage assets, including setting. Moreover, the harm identified would not be outweighed by the need for that installation. The siting and appearance would

⁸ Ref 19/04956/FUL.

⁹ Ref 15/02132/PNT56.

mean that the proposal would fail to meet the requirements of s72(1) of the Act. The proposal would also be contrary to Policy TI5 of the Harrogate District Local Plan (2020) (the HLP) which, insofar as it is relevant, seeks to ensure telecommunications equipment does not have a significant adverse impact on the character or appearance of the surrounding area and avoids harm to sensitive areas. There would also be conflict with Policies HP2 and HP3 of the HLP and the provisions of the Framework which, in summary and amongst other things, seek to ensure development proposals reinforce local distinctiveness and conserve and enhance heritage assets in a manner appropriate to their significance.

40. Similarly, there would be conflict with paragraph 119 of the Framework which requires new telecommunications sites to be sympathetically designed and camouflaged, where appropriate. Conflict would also occur with Ripon Neighbourhood Plan (2019) Policies A.3 and C.1 which together seek to protect the skyline and established views within the City.

Conclusion

41. For the reasons given above I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR