



Appeal Decision

Site visit made on 9 April 2024

by E Worthington BA (Hons) MTP MUED MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 April 2024

Appeal Ref: APP/N4720/W/24/3337139

Holy Trinity Church, Boar Lane, Leeds, LS1 6HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by NET coverage Solutions Limited against the decision of Leeds City Council.
 - The application Ref 22/07127/FU, dated 19 October 2022, was refused by notice dated 30 October 2023.
 - The development proposed is described as 'the installation of 16 No. antennas mounted behind new timber louvres within the church at the top of the tower, the removal of 7 No. existing antennas, 1 No. GPS module to be mounted to the inside face of the parapet and ancillary development thereto'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the proposal relates to a listed building and a conservation area, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. There is no listed building consent appeal before me and as a consequence this appeal relates only to the planning merits of the case. It does not consider any works which would require listed building consent, but not planning permission.

Main Issue

4. The main issue is whether the proposal would preserve the grade I listed building Holy Trinity Church (Ref: 1255870) and any of the features of special architectural or historic interest that it possesses, and whether it would preserve or enhance the character or appearance of the Leeds City Centre Conservation Area.

Reasons

The listed building and the conservation area

5. The Holy Trinity is an Anglican church dating to 1721-7. Built in ashlar stone, it has a projecting central entrance bay with giant Doric pilasters, a frieze and cornice and a blocking course surmounted by urns. It is defined by its distinctive six stage tower at its west end which displays round-arched belfry windows in rusticated surrounds.
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6. The upper stages of the tower were added in 1841 and are constructed in an elegant and decorative Baroque style, with a composition characterised by bold masses of curved shapes and strong contrasts. At the bottom of the tower the window openings on stages two and three are enclosed with louvres. However, as the tower gradually narrows on ascent, the smaller more delicate upper three stages have arched window openings to each side which are open and allow views through the tower to the sky. These create an impression of lightness and fragility to the uppermost parts of the tower.
7. The church's commanding scale, highly decorative architectural composition and distinctive lofty tower attest to its longstanding function as a place of worship and landmark building in the city centre. It is recognised as being of the highest national significance and of exceptional architectural and historic interest. Historic England advises that the building is a highly significant example of an early 18th century church which has a high architectural value, and indicates that the tower is an iconic feature on the Leeds skyline.
8. I therefore find that the significance of the listed building, insofar as relating to this appeal, is primarily associated with the distinctive form and historic fabric of the church, and its architectural features notably the graceful architectural form and intricate design of the tower.
9. The building is within the Leeds City Centre Conservation Area which covers much of the city centre. The character and appearance of the conservation area includes a variety of high quality historic buildings in a formal urban setting with wide thoroughfares flanked by tall buildings and high quality public realm, some of which is interspersed with newer buildings. I consider that the significance of the conservation area, in so far as it relates to this appeal is mainly derived from the quality and variety of the historic buildings, including the important landmark buildings, and the relationships of these to each other and the spaces, streets and public realm around them that make up the distinctive and cohesive townscape and skyline of the city centre.
10. The appeal building is in a prominent position adjacent to an open area of public realm fronting Boar Lane. The modern Trinity Shopping Centre with its extensive contemporary sweeping glass domed roof is immediately to the north, and has been purposefully designed so as to cradle the church. The church is a substantial and obvious landmark building of some importance and its graceful lofty tower has a strong presence on the skyline. Thus it contributes positively to the historic character and appearance of the conservation area.

The effect of the proposal on the listed building and the conservation area

11. The proposal includes the provision of sixteen antennae in the tower which would be sited behind new timber louvres to the four window openings within the bottom section of the currently open uppermost three stages of the tower. These would match the existing louvres immediately below.
12. The proposal also includes the removal of seven existing antennae from behind those existing louvres (which need to be increased in height to enable the additional technologies to be above the surrounding buildings and to comply with safety legislation). The proposal also includes the installation of a GPS module mounted to the inside face of the parapet.

13. The antennae would be modest in size, finished in black and mounted on new steelwork which would also be painted black. They would be entirely hidden by the louvres and remain concentrated in one area of the building. The louvres would be constructed in timber to match those below and would allow sunlight through. The development would be carried out by specialist crafts people. The antennae would be hosted internally in the building and its footprint would not be altered. The church has hosted telecoms equipment since 2001 and sits within commercial surroundings in the city centre. The church tower is some 50 metres high and the proposed antennae would be sited around 37 metres from street level.
14. Despite their elevated position and the size and orientation of the openings, the sky is visible through the windows in the uppermost stages of the tower in some views taken at street level from Boar Lane. This is so in some closer range views looking directly upwards, as well as in some long range views looking along Boar Lane where the tower is a strong feature of the skyline.
15. Moreover, the tower is an obvious and striking feature within the Trinity Shopping Centre. From here it is seen in relatively close proximity through the glass domed roof from the various floor levels within the mall's atrium and the escalators there. It dominates views looking upwards as well as those looking across the atrium on the upper levels of the mall. The open nature of the top sections of the tower, and views through its windows to the sky, are also appreciated from there.
16. In introducing louvres, the proposal would see the enclosure of the four larger windows on the lower section of the top part of the tower such that all views of the sky through those openings would be obscured. Whilst no views of the surrounding townscape would be blocked, in closing off important vistas of the sky, the delicate and light appearance of the refined upper part of the tower would be seriously diminished. This would unacceptably detract from the distinctive architectural form, features and detailing of the tower and erode its integrity. This being so, I find that the proposal would erode the prestige and stature of the historic landmark church and undermine its traditional form and distinctive character, thus diminishing its authenticity and impairing its historic legibility.
17. In causing harm to the listed building, which also contributes positively to the historic townscape and significance of the conservation area, the proposal would also detrimentally affect how the conservation area is experienced. I therefore consider that the proposal would be harmful to the significance of the conservation area and fail to preserve its character and appearance.
18. In coming to this view I have had regard to the appellant's argument that the changes to the listed building would be reversible. I understand that if the equipment becomes obsolete it can be removed and the tower restored to its original state. However, whilst they may be time limited by the longevity of their technology, no indication as to the likely lifespan of the antennae or possible timescale for their removal is given. In practical terms it seems to me that they would be likely to be in place for a number of years. It also seems likely that a future upgrade of the equipment and the retention of the louvres is a possibility. As such, the harm that would be caused, even over a temporary period, would still be considerable.

19. I am also conscious that the use of bird proof mesh to enclose the windows rather than louvres has been considered and ruled out. The antennae would need to be positioned in the centre of the openings and so in themselves would block views of the sky to some degree, and the mesh would also serve to diminish these views further. Additionally the appellant is concerned that the mesh would be insufficient to prevent birds getting in, and that its temporary appearance would not be aesthetically pleasing and appear at odds with the existing louvres. I have some sympathy with the appellant on these points, but the shortcomings of this alternative approach do not alter the harm I have identified in relation to the appeal proposal or serve to justify it.
20. I therefore conclude on the main issue that the proposal would fail to preserve the special interest of the listed building and would cause harm to the character or appearance of the conservation area. I give this harm considerable importance and weight in the balance of this appeal.

Heritage balance

21. The National Planning Policy Framework 2023 (the Framework) advises at paragraph 205 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I consider that the harm in this case, although serious, would be less than substantial in the terms meant by the Framework. Paragraph 208 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.
22. The Framework seeks to support high quality communications. Paragraph 118 recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Paragraph 119 states that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. The use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks), equipment should be sympathetically designed and camouflaged where appropriate.
23. The appellant refers to (amongst other things), the Government's Industrial Strategy, the Digital Nations Ministers, the Online Nation Report 2023, the Connected Nations 5G Performance Report 2023, the Councils and Connectivity 2 – A report by Building Mobile Britain and Mobile UK May 2019, the Councillor's Guide to Digital Connectivity September 2019, the Future Telecoms Infrastructure July 2018, the Statement of Strategic priorities for telecommunications, the management of radio spectrum and postal services October 2019, and the government's general commitment to the review of permitted development rights. These all support the provision of 5G and recognise its contribution to economic growth.
24. I have also had regard to the policies in the Leeds Core Strategy (CS) which are cited by the appellant and lend support to the proposal. These include Spatial Policy 2 which aims to attract businesses and people to the city, CS Policy CC1 which seeks to strengthen the city centre, CS Policy P9 which

- relates to community facilities and other services, Spatial Policy 8 which seeks to support a competitive local economy.
25. The proposal accords with the International Commission for Non Ionising Radiation Protection guidelines for public exposure. As a leading mobile infrastructure services company and a licensed code operator, the appellant has a legal obligation to ensure its service can be provided throughout the country as it contributes to socioeconomic development. Demand for and reliance on mobile communications has increased due to the pandemic and the expansion of homeworking as well as online schooling. Mobile phone technology has evolved and customer led demands have increased.
26. The proposal is required to enhance coverage and capacity both to improve existing 4G coverage, and to provide 5G coverage. It would also future proof the quality of the network. The existing base station is integral to providing mobile coverage to the target area which is within a busy densely populated commercial area where there is high demand for signal speed, quality and strength. Current signal levels in the area are insufficient to provide adequate coverage and the existing equipment at the site also needs to be replaced. As set out above, the existing antennae would be increased in number and positioned higher in the building. This would improve coverage, and also allow the site to become a site sharing base station with the introduction of a new additional operator to serve a wider customer base.
27. Improved and enhanced coverage would support businesses including retail and entertainment uses, visitor attractions and tourism activities thereby improving economic prosperity. It would also support the delivery of essential services to the high footfall city centre location and improve the experience of customers. The proposal would enable people to stay in touch improving social wellbeing and work life balance, as well as providing the potential to reduce the need to travel with knock on benefits in terms of sustainability and carbon emissions. These are public benefits of the proposal. Additionally, the church would receive revenue from the installation which would ensure the church is maintained for future generations. This is a further public benefit.
28. In line with best practice and the sequential approach set out in the Framework, and in order to prevent a proliferation of base stations the appellant has sought to upgrade an existing site in the first instance. I appreciate that the church tower provides a good host due to its height. That said, whilst the appellant indicates that there is a lack of suitable alternative buildings nearby, I have seen nothing to demonstrate that this is so.
29. The appellant indicates that the surrounding buildings all have roofs which are not architecturally suitable to install antennae on. It is also stated that a streetworks column would be unsuitable due to the surrounding tall buildings. However, I have seen no detailed consideration or assessment of any particular alternative buildings, masts, structures or sites, or the reasons as to why they were ruled out. As such, it has not been robustly established that no suitable alternative sites for the installation exist that would prove less harmful. This limits the public benefit of the proposal, since I cannot be sure the benefits as outlined could not be realised by development elsewhere. That the Council has not suggested any alternative sites does not alter my view.

30. Bringing matters together, for the reasons set out above I have found that the proposal would fail to preserve the special interest of the listed building and would fail to preserve the character or appearance of the conservation area, and I give this harm considerable importance and weight. Thus, even taking all the factors considered above into account, I find that the public benefits arising from the proposal would not outweigh the harm to the significance of the designated heritage asset I have identified.
31. The proposal would thus be contrary to CS Policy P10 which concerns design and requires new development to be based on a thorough contextual analysis to provide good design appropriate to its location scale and function. It would conflict with CS Policy P11 which states that the historic environment will be conserved and enhanced, particularly those elements which help to give Leeds its distinct identity. The proposal would also be at odds with Policy GP5 of the Leeds Unitary Development Plan (UDP) which requires proposals to seek to avoid problems of environmental intrusion and loss of amenity (amongst other things). Furthermore, it would undermine UDP Policy BD6 which requires all alterations to respect the scale, form, detailing and materials of the original building, and UDP Policy N17 which indicates that wherever possible, existing detailing and all features which contribute to the character of the listed building should be preserved.
32. For these reasons the proposal would fail to satisfy the requirements of the Act and paragraph 203 of the Framework and would be in conflict with the development Plan.

Other Matters

33. The appellant argues that the Council has not approached the decision in a positive or creative way or worked with the appellant as required by the Framework. However that is a matter between the appellant and the Council. I confirm that I have considered the appeal scheme on its own merits and made my own assessment as to its impact.
34. I am aware that the appeal is for planning permission and not listed building consent, which the appellant advises is not required due to ecclesiastical exemption. The Council apologises for erroneously referring to listed building consent in its officer's report and confirms the scheme was treated as a full application. I confirm that this matter has no bearing on my decision which has considered the scheme under the terms set out in this appeal decision.
35. The appellant argues that the existing antennae were permitted in 2001 when the legislation in place was more restrictive. I am also aware that the appellant consulted local councillors and the local MP and no objections were received. Be that as it may, these are not reasons to allow further installations that would be harmful.
36. Church buildings are widely used by telecoms operators. The church in this case was involved at an early stage and were instrumental in the scheme's design. The Diocesan Advisory Committee for care of churches is a statutory committee that controls places of worship and has granted/approved the faculty in this case. I also note the appellant's reference to the ecclesiastical exemption and the powers and wishes of the church in this regard. However, these matters do not justify the harm I have described.

37. The appellant refers to an appeal decision in London where the installation of a rooftop telecommunications station was allowed. However, I cannot be assured that the circumstances at play in that appeal are the same as in the one before me. I also note that that decision relates to a roof than a tower, and concerns a seven storey office and residential building rather than a historic listed church as is the case in this appeal. In any event, I confirm that I have considered the appeal scheme on its own merits and made my own assessment as to its impacts. As such, this example does not add any weight in favour of the appeal scheme.

Conclusion

38. For the reasons set out above, and having regard to all the other matters raised, I conclude that the appeal should be dismissed.

E Worthington

INSPECTOR