



Appeal Decision

Site visit made on 14 May 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2024

Appeal Ref: APP/B4215/W/23/3332138

British Muslim Heritage Centre, College Road, Whalley Range, Manchester M16 8BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 EE (UK) Ltd & Hutchison UK Ltd against the decision of Manchester City Council.
 - The application Ref is 137860/FO/2023.
 - The development proposed is the erection of 25m Cypress Tree type telecommunication mast and associated cabinets within a fenced compound 2.4m in height.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development from the decision notice, rather than the application form, as it more accurately describes the proposal.
3. 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.
4. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan, related guidance and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
5. On 21 March 2024, after the appeal was submitted, the Council adopted the Places for Everyone Joint Development Plan Document (PfE) as part of its Development Plan. PfE is a joint Development Plan Document produced by nine Greater Manchester districts, of which Manchester is one. The Council have referenced the updated policies of the PfE in its statement, which the appellant has had an opportunity to comment on.

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, having regard to the setting of the British Muslim Heritage Centre and the effect on the character

and appearance of Whalley Range Conservation Area, and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

The heritage assets

7. The appeal site is located within the Whalley Range Conservation Area (CA) and within the curtilage of the British Muslim Heritage Centre (BMHC), which is a Grade II* listed building.¹
8. The proposal would be located in the grounds of the BMHC, to the rear of the building itself, towards the eastern boundary wall and railings in an area that functions as part of an overflow car park, currently covered by a gravelled surface. A footpath beyond the boundary wall separates the appeal site from residential properties along Burford Walk. Further residential properties are situated to the south of the appeal site along Clarendon Road.
9. The BMHC is a building of high significance and prominence, and the principal landmark of the CA. Constructed between 1840-1843 by Irwin and Chester as a college for training Non-Conformist ministers who were excluded from the Universities of Oxford and Cambridge, it jointly established the University of Manchester in 1880. The listed building is an accomplished new-Gothic building built of sandstone ashlar and brick, with octagonal tower and pinnacles. The central entrance block forms an eye-catching feature with a parapet, pinnacles and gargoyles. The building has Tudor-style doorways and oriel, mullion and transom windows with geometrical leaded glazing. These features contribute to a uniquely detailed building with a strong vertical and dominant appearance within the street scene. Its presence as a focal landmark is enhanced by the dramatic gothic design and high quality craftsmanship. These architectural and historical interests positively contribute to the building's significance.
10. The entrance gateway and gates of the BMHC are Grade II listed. They were also constructed c.1840 by Irwin and Chester and survive as octagonal gate piers and gabled archways of sandstone ashlar, with elaborate cast iron gates in between, located on the central axis of the northern boundary of the grounds of the heritage centre along College Road. These features contribute to the imposing and impressive appearance of the BMHC within the street scene.
11. The spacious grounds of the BMHC provide an attractive backdrop and important contribution to the setting for the listed building. The landscaping and mature tree cover at the appeal site contribute to the green and verdant character of the area. Due to the vertical presence of the building, it is visible from a number of locations, with its prominence emphasised by its position at the head of Wood Road. The BMHC is also visible from Clarendon Road and the houses along the footpath at Burford Walk.
12. The CA covers the area of Samuel Brook's planned 19th century suburban estate. The layout of this estate is largely extant in its original format. I consider that the significance of the CA as a heritage asset is largely derived from the fine Victorian houses, with architectural detailing and generous landscaped plots situated on tree-lined avenues which were laid out as part of the original estate design. The legibility of the area's historical origins as one of

¹ List entry 1197762

Manchester's first suburbs has been well preserved. The Victorian dwellings and tree-lined streets give the area a historic, verdant and attractive character, and as the BMHC is the principal landmark and focus of the CA, this also contributes to the CA's significance.

The effect of the proposal on the BMHC

13. The Framework states that when considering the impact of the proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and 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, including from development within its setting, should require clear and convincing justification.
14. The appellant has set out the rationale for the height of the tower and explained that the height of 25m is the very lowest that works for the operators without compromising the level of service. However, the evidence before me indicates that the mast would project some 8.5m higher than the surrounding trees. Whilst the mast would be disguised as a cypress tree to minimise its impact, this would look somewhat false when viewed against the surrounding natural foliage. The manmade materials would emphasise the awkward juxtaposition of the mast against the natural greenery and has the potential to draw the eye, rather than blend seamlessly with its surroundings. As the majority of the surrounding trees are deciduous, during the winter months the disguise would be even more stark and obvious. Whilst the surrounding trees may help to shield the installation to a small extent, due to the proposed height and materials, the mast would appear as conspicuous and incongruous and would not assimilate well into its surroundings.
15. Whilst there is some vertical street furniture in the locality, including a pole with CCTV cameras, telegraph poles and lampposts, the proposal would be markedly taller and bulkier, which would compound its visual and physical prominence. As a vertical structure the mast would intrude into the setting of the BMHC and compete with the BMHC's vertical presence, dominating its setting and detracting from views towards it to the detriment of its significance.
16. Despite the relative height of the boundary walls and its position alongside mature trees, the proposal would be particularly noticeable from short range views from residential properties on Burford Road and Clarendon Road, and would be located particularly close to dwellings along Burford Walk. The close proximity of the appeal site to a number of these properties coupled with the overall height of the mast would lead to the proposal appearing as dominant and imposing to occupiers.
17. The proposal would be visible to a lesser extent from College Road as it would be further back from the road and obscured to some extent by the mature trees and, from various angles, the BMHC itself. However, during the winter months when the trees are not in leaf, the visibility of the proposal from College Road would increase, detracting from the appearance of the listed building.
18. From the southern facades of the BMHC the proposal would be visible. Despite the proposal being located within an area which contains modern additions such as a marquee, sliding gate and loudspeaker, due to the survival of the tree lined path and retention of the land demarcations depicted on the

Ordnance Survey mapping of 1893-94, the views from the rear of the BMHC towards the proposal contribute to the historic setting of the BMHC.

19. Due to the separation distance and the intervening greenery and building, I do not find that the proposal would harm the significance of the Grade II listed entrance gateway and gates. However, for the reasons above I find that the proposal would fail to preserve the setting of the Grade II* listed BMHC. I consider that the harm, given the limited nature and extent of the development, would be less than substantial.

The effect of the proposal on the CA

20. In assessing the effects of the proposal, I am mindful of my duty with regards to S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
21. The introduction of a new and incongruous structure to the skyline would undermine the quality and appreciation of the landmark BMHC and would adversely affect the well-preserved historic townscape, to the detriment of the character of the CA. As the proposal would be sited within the curtilage of a significant and landmark building within the CA, the identified harmful visual effects of the proposal would erode the appearance of the CA as a whole, adversely affecting its significance.
22. I find that the proposal would cause harm to the significance of the conservation area and would fail to preserve its character and appearance. I consider that the harm in this case, given the limited nature and extent of the development, would be less than substantial.
23. Paragraph 208 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal. I will return to this in the planning balance.

Alternative sites

24. Paragraph 118 of the Framework states that planning decisions should support the expansion of electronic communications networks, including next generation mobile technology, such as 5G. Accordingly, given the harm to the character and appearance of the area, a balance must be struck, and consideration must be given to the need for the installation to be sited as proposed taking into account suitable alternatives.
25. The Framework explains that applications for electronic communications, including prior approval, should be supported with the necessary evidence to justify the proposed development. This should include for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.
26. In this instance I have not been provided with details of the extent of the existing masts that were discounted and limited information regarding existing buildings which were considered. Whilst the appellant dismisses those options as unviable, there is little information before me on those alternative sites, and I am not able to form my own view on the matter.

27. The appellant has also considered and discounted a number of sites within the cell search area, which is constrained geographically. However, I cannot accurately determine whether the reasons for discounting these other sites are reliable or robust, as the reasons given for discounting them lack detailed information being brief, generic and unsupported by other evidence. For example, two of the sites were discounted for being close to residential buildings, but it is unclear whether these sites would be closer to residential buildings or have a greater impact on residential amenity than the appeal site which lies in very close proximity to dwellings, particularly at Burford Walk. Furthermore, Alexandra Park was discounted as it is a historic park and garden, and St. Bede's College was discounted for being a listed building in the CA, with no explanation why this was deemed unsuitable in comparison to the appeal site which has identical constraints. A further 3 sites were discounted partly for being within the CA, with little information as to why they were considered as unsuitable in comparison to the proposed site, which is within the CA and within the curtilage of a Grade II* listed building. Moreover, there is no explanation setting out why the discounted sites were chosen as alternatives and no substantive evidence demonstrating why other areas of land within or close to the search area were not considered and discounted.
28. Consequently, I am not satisfied that a comprehensive review of the availability of alternative sites within the search area has been undertaken to demonstrate that the appeal site represents the only viable option.

Heritage and planning balance

29. As mentioned earlier, Paragraph 208 of the Framework requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
30. Paragraph 118 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. The appellant has stated that the site is required to enhance and maintain new 5G coverage and network capacity for EE Ltd within the Whalley Range area.
31. The public benefits associated with the provision of enhanced digital communication includes benefits to the wider economy, improved connectivity for business and communities and ensuring high quality and widespread coverage.
32. However, the Framework advises 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.
33. 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 in paragraph 195 of the Framework. Therefore, although the government aims to facilitate the growth of new telecommunications systems and digital technologies, it also places great emphasis on protecting designated heritage assets and their settings, particularly those of higher significance such as the BMHC.

34. Having regard to the benefits of the proposed development, on the basis of the evidence before me and my own observations on site, I have found that the proposed development would result in harm to the character and appearance of the area. It would fail to preserve the setting of the Grade II* listed building and would fail to preserve the character and appearance of the CA, and cause harm to their significance, to which I have attached great weight as advised by the Framework. There is no clear and persuasive evidence to demonstrate that the appeal site represents the only viable option. Therefore, notwithstanding the need to upgrade the network and assist the government's aspirations along with the associated public benefits, the harm that would arise from the siting of the development would not be outweighed by the overall need in this location.
35. Insofar as they are a material consideration, the proposal would be contrary to Policy JP-C2 of PfE which seeks to support the roll-out of mobile technology whilst protecting townscape quality. It would also conflict with Policy JP-P2 of PfE which seeks to ensure that the significance of key elements of the historic environment are protected from harm. It would conflict with saved policies DC17, DC18, DC19 of the Manchester Unitary Development Plan (1995) which seek to ensure that telecommunications developments are sited and designed to minimise their impact on residential amenity and in environmentally sensitive areas, and seek to preserve and enhance the character of conservation areas and protect the setting of listed buildings. It would also conflict with policies DM1, EN3 and SP1 of the Manchester Core Strategy Development Plan Document (2012) which seek to ensure that developments have regard to local character, complement heritage features, and protect and enhance the built environment. Furthermore, it would conflict with the provisions of the Framework which seek to conserve and enhance the historic environment.

Conclusion

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

L C Hughes

INSPECTOR