



Appeal Decision

Site visit made on 26 July 2024

by S Poole BA(Hons) DipArch MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2024

Appeal Ref: APP/X5210/W/24/3341771

164 Shaftsbury Avenue, London WC2H 8HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Cornerstone against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2021/5339/P.
 - The development proposed is the installation of steel grillage on a RC plinth on top of the existing plant room and 6no. antennas, 1no. 0.3m dish and 1no. 0.6m dish on tripods fixed to the steel grillage and ancillary development.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of steel grillage on a RC plinth on top of the existing plant room and 6no. antennas, 1no. 0.3m dish and 1no. 0.6m dish on tripods fixed to the steel grillage and ancillary development at 164 Shaftsbury Avenue, London WC2H 8HL in accordance with the terms of application, Ref 2021/5339/P, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: 100 rev B; 101 rev B; 200 rev A; 201 rev A; 300 rev A; 301 rev B; 302 rev A; 303 rev A; 304 rev A; 305 rev A; 306 rev A; 307 rev A; 400 rev A; 500 rev A; 501 rev A; 502 rev A.
 - 3) The apparatus hereby approved shall be removed from the building as soon as reasonably practicable when no longer required.
 - 4) Prior to their installation, details of the antennas, dishes and mounting structures shall be submitted to and approved in writing by the local planning authority and these elements shall be installed in accordance with the details approved.

Main Issues

2. The main issues are:
 - i) whether the proposal would preserve or enhance the character or appearance of the Seven Dials (Covent Garden) Conservation Area and the effect of the proposal on the settings of nearby listed buildings; and
 - ii) in the event of any harm to the significance of designated heritage assets being found, whether this would be outweighed by public benefits.

Reasons

Character and Appearance

3. The appeal site is located on the corner of Shaftesbury Avenue and Mercer Street and comprises a predominantly 7-storey, brick and glass office building. The surroundings are predominately commercial and form part of London's busy West End and Theatre district. The site is situated within the Seven Dials (Covent Garden) Conservation Area (CA) and it is directly opposite the grade II listed, the Saville Theatre (No. 135-149 Shaftesbury Avenue) and close to further listed buildings in Earlham Street, Mercer Street and Monmouth Street.
4. The significance of the CA is principally derived from the late 17th century radiating plan of relatively narrow streets formed around a small circus. This creates a characterful tightly knit built form. The appeal property is on the edge of this area and makes a neutral contribution to the character and appearance of the CA. It forms a clear edge to the setting of the former Saville Theatre opposite.
5. The main roof of the appeal property accommodates mechanical plant and service equipment, a steel walkway, an aerial/antenna, handrails and a number of beehives. Towards the rear corner there is a plant room, which is visible in views looking along Mercer Street from the circus but not from Shaftesbury Avenue. The appeal proposal would involve the installation of electronic communications equipment primarily comprising 6 antennas and 2 dishes on top of the plant room. The application drawings indicate that the antennas would project more than 4m above the roof of the plant room and would be mounted in pairs sited near to the edges of the plant room roof.
6. There is existing communications equipment on the roof of 125 Shaftesbury Avenue, a taller building close to the appeal property. The appellant has advised that this would be removed once the appeal proposal is in place and operational. There is however no mechanism before me to ensure that this would occur and therefore the cumulative effect of communications equipment on the 2 buildings needs to be assessed.
7. Some of the proposed antennas would be apparent in views looking along Mercer Street and they would be incongruous features in the street scene. They would however be viewed against a backdrop of sky and due to their shape, design and spacing would not be overtly prominent in this urban setting. I note that the proposal would not be co-visible with the existing equipment at No.125 from street level but that views of both facilities would be possible from some upper floor windows in surrounding buildings and there would be impacts on the wider roofscape of the area due to the increase in roof level clutter.
8. Overall, I conclude that due to its siting, size and design the appeal proposal would fail to preserve the character and appearance of the CA. The proposal is therefore contrary to Policies D1 and D2 of the London Borough of Camden Local Plan 2017 which, amongst other matters, seek to secure high quality design that respects local context and character and preserves or enhances the historic environment and heritage assets. I am satisfied however that, due to its siting, the proposal would not result in unacceptable impacts on the setting of the former Saville Theatre or other listed buildings in the area.

Public Benefits

9. Whilst the proposal would fail to preserve the character and appearance of the CA, the harm, taking into account the cumulative harm due to the equipment at No.125, would be less than substantial. In these circumstances Paragraph 202 of the National Planning Policy Framework (2021) requires me to weigh the harm against the public benefits of the proposal.
10. Paragraph 118 of the National Planning Policy Framework (2023) notes that high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning policies and decisions should support the expansion of electronic communications networks. The information before me indicates that the proposal would cater for a coverage and capacity gap in an area where there is a high demand for network services with a high level of often transient users. As such there are clear economic and social well-being benefits to the public arising from the proposal.

Planning Balance

11. I have found that the proposal, having regard to the cumulative effect of 2 facilities close to each other, would fail to preserve the character and appearance of the CA and would cause less than substantial harm to the significance of this heritage asset. As such there is conflict with the development plan.
12. However, I have also found that significant public benefits would be delivered through the provision of improved mobile communication networks. These public benefits would outweigh the limited harm to heritage assets identified. The material considerations therefore indicate that, in this case, the proposal should be determined other than in accordance with the development plan.

Conditions

13. I have considered the conditions suggested by the Council having regard to the National Planning Policy Framework and Planning Practice Guidance. In addition to the standard time limit condition, for the avoidance of doubt and in the interests of proper planning, a condition requiring the approved development to be carried out in accordance with the approved drawings is imposed. A planning condition is necessary to ensure the removal of equipment once it is no longer required.
14. The Council has put forward a condition requiring the equipment to match as closely as possible its background and to be as unobtrusive as possible. I am not satisfied that such a condition would be adequately precise or enforceable. For this reason I have re-worded the condition to require approval of details of these elements prior to installation.

Conclusion

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

S Poole INSPECTOR