



Appeal Decision

Site Visit made on 26 October 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2021

Appeal Ref: APP/X5210/W/21/3272448

Matilda Apartments, 4 Earnshaw Street, London WC2H 8AJ

- 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 Cornerstone, Telefonica UK Ltd & Vodafone Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2020/2015/P, dated 7 May 2020, was refused by notice dated 5 October 2020.
 - The development proposed is installation of 10 no. antennas, 2 no. transmission dishes, equipment cabinets and ancillary development thereto.
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Decision

1. The appeal is allowed and planning permission is granted for installation of 10 no. antennas, 2 no. transmission dishes, equipment cabinets and ancillary development thereto, at Matilda Apartments, 4 Earnshaw Street, London WC2H 8AJ, in accordance with the terms of the application, Ref 2020/2015/P, dated 7 May 2020, and 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 plans: 100A, 200/A, 201/C, 300/A, 301/D, 302/A, 303/B, 304/A, 305/B, 306/A, 307/B.
 - 3) All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture, those used at roof level of the existing building, unless otherwise specified in the approved application.

Preliminary Matters

2. The address given on the application form was Central St Giles, 1 St Giles High Street, London, WC2H 8AG. However, this refers to the wider complex of tall buildings to surrounding Central St Giles Plaza. The submitted documents confirm that the appeal specifically relates to Matilda Apartments, the westernmost building of the complex. Both main parties acknowledge this as the official address of the appeal building, and I have therefore used it.
3. Since determination of the application, the new London Plan was adopted on 2 March 2021 and the revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have had the opportunity during the appeal process to comment on the relevance to their respective cases of these revisions to local and national policy.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, having particular regard to the effect of the proposal on the significance of the Denmark Street Conservation Area (DSCA), including its setting and the settings of listed buildings at Centre Point, Centre Point House and White Lion House.

Reasons

Site Context

5. Matilda Apartments is a fifteen storey building forming part of the Central St Giles complex developed between 2002 and 2010. The buildings are notable for their distinctive coloured facades. The appeal site does not lie within a conservation area; however, the DSCA lies to the west and south-west of the site. In addition, the Bloomsbury Conservation Area (BCA) lies to the east and north of the wider Central St Giles complex and the Seven Dials Conservation Area (SDCA) lies to the south and south-east of the appeal site.
6. Several listed buildings are located close to the site. The iconic 33-storey Centre Point tower and adjoining Centre Point House and White Lion House are Grade II listed. The significance of Centre Point derives from it forming one of the most distinctive high-rise compositions of the 1960s and is a major London landmark.
7. The Grade I listed Church of St Giles in the Fields is located immediately to the south-west of the appeal site. Its significance derives principally from the architectural and artistic interest of its surviving historic fabric, whilst elements that contribute positively to its setting include its churchyard, nearby listed buildings of similar age in Denmark Street and the surviving historic street layout within which the church is a focal point.
8. The DSCA is a small but diverse conservation area centred on St Giles Church, its significance expressed through many centuries of history evident in the street layout, buildings, open spaces and uses. The Conservation Area Appraisal (March 2010) acknowledges that the setting of St Giles Church and the DSCA has been significantly altered by the post-war redevelopment of the north side of St Giles High Street, most recently the Central St Giles scheme.
9. The proposal forms part of a replacement scheme for a base station previously located on the roof of Castlewood House, a now-demolished building immediately to the north of the appeal site which was undergoing redevelopment at the time of my visit.
10. The appeal proposes a suite of telecommunications equipment at roof level of Matilda Apartments, comprising 10 antennas on 5 masts, two transmission dishes and associated cabinets and other ancillary equipment. These would be located on top of an existing flat grillage structure, known as the 'flying carpet', which covers the centre of the roof and conceals existing rooftop equipment. The grillage stands at 46.5 metres above ground level. The proposed masts would reach a height of 52.1 metres above ground level. The masts would be roughly located to each corner of the roof, albeit inset from the roof edges, with the fifth located along the western side of the grillage. Ancillary equipment cabinets would be located to the centre of the roof, with a walkway around the edge of the grillage structure enclosed by a 1100mm handrail.

Character and Appearance

11. The proposed antennas would rise above the parapet level and the 'flying carpet' which conceals various plant and gives the building a clean roofline when viewed from street level. The principal views of the building are from New Oxford Street looking south along Earnshaw Street, from Denmark Street looking north-east, and from the area surrounding St Giles Church. Elsewhere, the intervening presence of tall buildings largely obscures views of the appeal building, or limits views to narrow or partial glimpses between buildings in the foreground. No views would be possible from immediately below the building, owing to its height and the setback of the antennas from the roof edges.
12. The appeal building is a striking development owing to its colourful facades, which draw the eye in views from all sides, and I recognise that the design has deliberately sought to maintain a clean roofline to the building. The proposed antennas would clearly be visible above this roofline from the aforementioned vantage points. The antennas would be lightweight, slender structures; though the number of antennas, and their spread across the roof would create a cumulative effect that would add to their visibility. They would not relate in form to the parent building and would interrupt the clean roofline, thus undermining an element of the original design intent of the building. The associated handrail would be less visible owing to its lower height, and would be less strident in appearance as it would assimilate with the grillage structure below. The equipment cabinets would be set to the centre of the roof and would have limited visibility from ground level as a result.
13. From the top of Earnshaw Street, the antennas would appear as minor, ancillary installations when compared to the scale of the host building. The ongoing redevelopment of the former Castlewood House in the foreground of these views will further change the immediate surroundings of the appeal site, adding more features of visual interest to the street scene that would in time dilute the prominence of the antennas. Moreover, given their slender form and setback position from the roof edge, the antennas would not have a significant effect on the appreciation of the distinctive facades of the buildings in the Central St Giles complex, which would continue to draw the eye of the observer in the first instance.
14. Despite forming part of its reason for refusal, the Council has not elaborated on the manner in which it considers the proposal would cause harm to the significance of nearby heritage assets. Reference is made to the setting of the nearby conservation areas and listed buildings, but no explanation is offered as to the contribution the appeal building makes to their respective settings, nor as to the specific impact the proposal would have on these settings.
15. The antennas would be visible from the DSCA, mainly in the vista along Denmark Street itself, and from the area around St Giles Church. In both cases, the appeal building forms a substantial backdrop to these parts of the conservation area, one which is clearly contemporary in character and which does not relate to the historic architecture or urban grain of the DSCA. Its contribution to the setting of the DSCA is therefore limited, in the main marking the edge of the conservation area and highlighting the clear contrast between the old and new. In this context, the proposed antennas would simply appear as additional, minor elements of modern development outside of the conservation area. They would be visible, but would not be of a scale or

massing that would materially alter the overall relationship of the parent building to the adjacent conservation area. For the same reasons, I find there would be no adverse effect on the significance of the listed St Giles Church, as the principal features which contribute positively to its setting would be similarly unaffected.

16. In terms of the northern part of the DSCA, focused on Centre Point, the appeal building would bear more relation to the age, scale and form of development, albeit still considerably lower in height than the landmark tower. The setting of the Centre Point complex has undergone significant change, including Central St Giles itself, and the redevelopments of White Lion House and Castlewood House. Compared to this scale of change, the proposed antennas would not have an adverse effect on the setting of the listed buildings. The distinctive modernist architecture, layout of the complex and the primacy of the tower would not be harmed.
17. I have also considered the view from Charing Cross Road between the forthcoming Outernet building and the glazed tube station entrance. From here, the roofline of the building is glimpsed between significant buildings in the foreground. It is not a deliberate vista, as only the uppermost part of the building can be seen above Centre Point House, and its overall form cannot be read. As such, I find that the extent to which the building would be observed from this location would be limited. In any event, the antennas would appear as minor rooftop additions with limited visual impact when compared with the more striking buildings in the foreground.
18. The Council also refers to the possibility of the rooftop being visible from neighbouring buildings of similar or greater height, most notably Centre Point. I am also cognisant of the representations from the architects of the building who point out that the roof level was designed with visibility from higher vantage points in mind. However, views from such positions will take in broad panoramas of nearby rooftops, where all manner of plant will be visible, including other mobile telecommunications equipment. The additional sight of the proposed development would not be harmful to the setting of the DSCA in this context, though I accept that in terms of the building itself, the proposals would disrupt the clean appearance of the rooftop to a minor degree.
19. The Council has not alleged harm would result to the significance of either the BCA or the SDCA. In the case of the former, there is some visibility of the site from within the BCA on New Oxford Street. However, in view of the significant changes occurring to the townscape in this area, which serve to restrict views of the proposal to single viewpoints where it appears in the distance and part of a busy street scene, I am content that there would be no harmful effect on the setting of the BCA as a result of the proposal. In the case of the latter, there would be little to no visibility of the appeal proposal from within the conservation area, due to the intervening presence of the rest of the Central St Giles development. Consequently, there would be no harm to the setting of the SDCA, or its heritage significance.
20. For these reasons, I conclude that there would be minor harm to the overall design quality of the host building itself, resulting in conflict with Policy D1 of the Camden Local Plan (July 2017), which seeks development of the highest architectural and urban design quality that complements and enhances the distinct local character and identity of the area. However, I conclude that there

would be no adverse effect on the settings of the adjacent DSCA or listed buildings, the heritage significance of which would therefore be preserved. No conflict would therefore arise with Policy D2 of the CLP, which seeks to preserve and, where appropriate, enhance Camden's heritage assets and their settings.

Other Material Considerations

Alternative Designs

21. The Council is critical of the appellants for not pursuing 'bespoke' solutions as suggested in pre-planning correspondence. However, there is no indication as to what, if anything, the Council had in mind as a potentially acceptable solution. The appellants have explained in detail the rationale for the proposed siting and design of the antennas, and why alternative options would not be feasible. Importantly, the height of the antennas is indicated to be necessary to ensure ICNIRP¹ compliance relating to the safety of maintenance workers at roof level.
22. The appellants add that issues of wind loading and signal loss precluded use of GRP shrouds to conceal the antennas, as suggested by the Covent Garden Community Association. Moreover, this would introduce multiple box-like structures at roof level that would have significantly greater massing and visual impact compared to the proposed unscreened antennas. The Council's query as to whether antennas could be laid horizontally has also been explained as technically unsatisfactory. Other options, including a stub mast, wall-mounted antennas, smaller antennas and fewer antennas have each been discounted for operational or safety reasons. Overall, I am satisfied that the design and siting of the proposal has been fully considered and that no other less harmful design options exist as feasible alternatives.

Alternative Sites

23. The Framework states that the number of masts and sites 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, with use of existing masts, buildings and other structures encouraged, and evidence provided to demonstrate this has been explored.
24. The Council has not sought to challenge the appellants' evidence in respect of the need for the proposal, nor has it questioned the site selection process undertaken. However, an objection on behalf of the freeholder of the building challenges the appellants' argument that the proposed site is needed, and that other, more suitable sites exist. It is argued that the three sites chosen for the split cell approach to replacing the former base station at Castlewood House are in fact alternatives and preferable to the appeal site, and that the use of three sites fails to keep the number of masts to a minimum.
25. The Framework is clear that the need for an electronic communications system should not be questioned. However, I have had regard to the evidence in respect of the site selection process. This includes assessment of seven nearby buildings. Given the need to replace an existing base station in this case, it is reasonable to conclude that the location must be as close as possible to the previous location. The reasons given for discounting these other sites are based

¹ International Commission on non-ionising radiation protection (ICNIRP)

on either technical grounds – building too tall or not tall enough, roof area too small, ICNIRP compliance issues – or planning grounds, i.e. where the building is listed. The appellants have also confirmed typographical errors omitting the word ‘not’ in the case of two of the sites assessed which gave an inaccurate outcome that the sites were suitable. Given this central London location where there is the inevitable challenge of factoring in multiple physical and heritage constraints alongside the need to meet high demand for mobile service provision, I am satisfied the appellants’ site selection process is robust and other sites have not been discounted unnecessarily. Therefore, I do not regard this as a matter weighing against the proposal.

26. Moreover, the appellants have explained the rationale behind the split site approach, including the need to account for a changing built form in the area, and the expected increased capacity requirements following the opening of the Tottenham Court Road Crossrail station. Given the cost of installing and maintaining a base station, it would also appear questionable from a business standpoint to install more base stations than were necessary. I also understand that applications for the other base stations are as yet undetermined by the Council, and therefore there is no certainty that these sites will receive masts. Therefore, on its own merits, the proposal would replace the base station at Castlewood House and would not lead to an excess of masts in the area.

Other matters raised

27. Concerns have been raised that the rooftop grillage would be physically unsuitable for the installation of antennas. However, whether the antenna can be physically installed in the proposed positions is ultimately a matter for the appellants to satisfy themselves of. My considerations are limited to the planning merits, which in this case relate primarily to visual impact. Moreover, any consents or agreements which need to be obtained from the freeholder of the building are separate matters falling outside of the planning system.
28. I am also aware that conditions exist on the planning permission for the host building which restrict additions to the building. However, the exception to this is where the written consent of the local planning authority is obtained. This would be the case where permission is granted on appeal, and I am satisfied that no conflict would therefore arise with the conditions in this case.
29. Reference is also made to perceived procedural inaccuracies regarding the documents required to be submitted with the application. The Council has not raised concern in this respect. On the evidence before me, I am satisfied that there is sufficient information available to enable me to determine the appeal, and that no procedural unfairness has been caused to any party.
30. Reference is also made to inaccuracies in the submitted plans. However, these relate primarily to minor details of the building’s facades, and not the roof level, which I am satisfied is shown accurately, and is sufficient for the purposes of determining the appeal.
31. Several residents of Matilda Apartments oppose the principle of installing the antennas on a residential building, referring to potential health risks. However, there is no policy, so far as I am aware, that precludes the installation of telecommunications equipment on residential buildings. The main criterion is that the installations are compliant with ICNIRP guidelines. The appellants have provided certification of compliance in this respect. The Framework makes it

clear that different health safeguards to ICNIRP should not be set, and therefore this is not a matter which would justify refusal of permission.

32. I have had regard to other appeal decisions referred to me. Whilst these relate to similar forms of telecommunication development, the site circumstances and particular evidence in each case will differ. As such, it is difficult to draw direct comparisons with the appeal scheme before me, which I have considered on its own planning merits and on the basis of the particular evidence in this case.

Planning Balance

33. I have found that there would be minor harm caused to the character and appearance of the host building due to the interruption to its roofline and consequent undermining of its overall design concept. This results in limited conflict with the development plan. However, I have concluded that this harm would not extend to the settings of nearby heritage assets. Consequently, it is not necessary to undertake either of the heritage balancing exercises set out at Paragraphs 201 or 202 of the Framework.
34. The Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology such as 5G. The London Plan also supports provision of digital infrastructure as a key part of delivering economic growth within London. The proposal would help to replicate the mobile telecommunications service previously provided by the base station at Castlewood House, and enable improved 5G connections in the area for two of the major mobile network operators. This would accord directly with the aims of the Framework and London Plan. It has been demonstrated that multiple constraints have restricted other potential sites, which adds to the importance of the appeal scheme in delivering the improved service provision that is a public benefit of significant weight in this case.
35. I find that these public benefits would outweigh the limited harm to character and appearance which I have identified. Therefore, material considerations exist which indicate that the proposal should be determined other than in accordance with the development plan.

Conditions

36. Planning permission is granted subject to the standard three year time limit condition. To provide certainty, a condition specifying the approved plans is required. To ensure a satisfactory appearance, it is necessary to condition that the colour of the equipment matches that of existing rooftop development.

Conclusion

37. For the reasons given above, I conclude that the appeal should be allowed.

K Savage

INSPECTOR