



Appeal Decision

Site visit made on 14 June 2023

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th January 2024

Appeal Ref: APP/G3110/W/22/3301653

36-39 Cantay House, Park End Street, Oxford OX1 1JD

- 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 MBNL On behalf EE and H3G against the decision of Oxford City Council.
 - The application Ref 21/01349, dated 29 April 2021, was refused by notice dated 23 December 2021.
 - The development proposed is removal of 6no existing antennas to be replaced with 6no new antennas, internal upgrade of existing equipment room and associated ancillary works thereto.
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Decision

1. The appeal is allowed and planning permission is granted for removal of 6no. existing antennas. Installation of 6no. antennas and 2no. MBL dishes, upgrade of existing equipment room and associated ancillary works at 36-39 Cantay House, Park End Street, Oxford, OX1 1JD in accordance with the terms of the application, Ref 21/01349, dated 29 April 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 501704_OXD014_93311_M009 Issue G, which includes 002 Site Location Plan, 215 Max Configuration Site Plan, 265 Max Configuration Elevation A, 266 Max Configuration Elevation B, 267 Max Configuration Elevation C, and 268 Max Configuration Elevation D.
 - 3) The development hereby permitted shall be constructed in accordance with the materials specified in the application documents.

Procedural Matters

2. Despite the description of development set out above, I consider that found in the Council's Statement of Case better reflects the scheme before me and that which the Council considered. The development proposed is therefore for *Removal of 6no. existing antennas. Installation of 6no. antennas and 2no. MBL dishes, upgrade of existing equipment room and associated ancillary works*. I have therefore dealt with the appeal on this basis.
3. The National Planning Policy Framework was revised on 19 December 2023 (the Framework). I have had regard to the Framework in my decision and I am

satisfied that this has not prejudiced any party, particularly as the revisions do not alter those parts therein upon which this appeal turns.

4. At the request of the Council, my site visit took in views of the proposal from Carfax Tower, St. Georges Tower, and the Oxford Castle Motte.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the site and its surroundings, including the skyline of the historic core of the city of Oxford; and whether it would preserve the setting of the Grade I listed buildings known as 'St George's Tower, St Georges Chapel Crypt and D Wing Including the Debtors Tower' and 'Well House Oxford Castle', the Grade II listed building, known as 'Carfax Tower, Tower of the Church of St Martin Carfax', the Scheduled 'Oxford Castle and earlier settlement remains', and the character and appearance of the Central Conservation Area.

Reasons

Significance and Setting

6. Well House Oxford Castle¹ is a Grade I listed Motte to the former Oxford Castle built around 1071 for Norman control over Oxford and the Upper Thames Valley. It is circular in plan form and constructed of earth. Standing at around 80 feet, it has an imposing presence. Atop the Motte would have been a wooden tower, but this was replaced by a medieval stone keep, the foundations of which are evident today. The Well Chamber is an early-13th Century addition constructed of rubble stone.
7. Much of the castle was lost in the 17th and 18th Centuries, with the listing description suggesting only St. George's Tower, St. George's Chapel Crypt, and the batter from the Round Tower were retained as part of the development of Oxford Prison in 1785. Together with St. George's Tower and Crypt, the D Wing Including the Debtors Tower, are also Grade I listed². However, it is the Tower to which I am referred, which survives as a rare piece of stone military architecture from the Norman conquest. It is possible it was constructed before the Motte, and the appellant's Heritage Statement of Case (HSoC) indicates it served as a bell tower for the Chapel of St. George.
8. As far as it is relevant to the appeal before me, the special interest of these listed buildings lies in their strategic, historic, architectural, and archaeological importance as part of the 11th Century original castle, which contribute to its understanding and significance as a heritage asset. In particular, the physical fabric of the early medieval and medieval defensive structures survive.
9. The Tower and Motte are also included in the scheduling of the 'Oxford Castle and earlier settlement remains'³ and there are views available out across the city from atop St Georges Tower and the Motte.
10. Carfax Tower, Tower of the Church of St Martin Carfax⁴, is the only surviving part of the latter, with the church twice demolished in the 19th Century. It is Grade II listed and probably originates from the 14th Century. In 1896, as part

¹ List Entry Number: 1369493.

² List Entry Number: 1369490.

³ List Entry Number 1007730.

⁴ List Entry Number: 1047353.

of the later demolition of the church, the tower was restored by Sir T G Jackson who added the buttresses and turret. It is also of importance given that it marks the western terminal of the High Street. As far as it is relevant to the appeal before me, its special interest is found in the architectural, and historic interest of its fabric, as an example of a medieval church, with extensive later 19th-century alterations. This contributes to its understanding and significance as a heritage asset.

11. Each of these assets also draws significance from its setting. This includes their relationship within the surrounding built context and how they are experienced and understood, but also how they relate to this context having regard to the elevated views available from them.
12. The extensive panoramic views obtainable from the top of St. George's Tower and the Motte demonstrate how strategically important they were for the defence and control over Oxford and the surrounding Upper Thames Valley, including towards the Western Hills beyond Oxford. Equally, St. George's Tower is visible from the Western Hills, but blends into Oxford's townscape. The Motte is more visible due to its form and the contrast of the grass and trees atop setting it apart from the surrounding built environment.
13. Carfax Tower has been repurposed to enable views from the turret, which is unlikely to have been the intention of its original design, but may have been an incidental benefit of Jackson's restoration. Nevertheless, views therefrom are not of specific relevance to its significance but provide a further opportunity to understand and experience Oxford's townscape and the contribution it makes to the significance of the CA.
14. The site and the existing telecommunications equipment are situated to the west of the heritage assets, within the later Post-Medieval and Modern expansion of Oxford, that incorporate built form of varied character and height.
15. The existing antennae and their supporting structures are visible from some distance from these heritage assets. However, they are seen in the context of and against backdrop of the varied townscape and roofscape of the CA, particularly the modern buildings around Cantay House, and the trees in the landscape beyond. Moreover, in the absence of substantive evidence to the contrary, I consider the appraisal in the HSoC of strategically important views to be well-reasoned. The views are part of the wider panorama of Oxford and must be considered in their current context, having regard to the extensive change that has occurred since all the assets were built. Hence, despite the existing antennae and structures not being architectural components of a roof, they do not interfere with the views to and from the Western Hills or the ability to experience and understand the setting of the assets.

Central Conservation Area

16. The Central Conservation Area (CA) is extensive and includes a high concentration of listed buildings that combine to create townscape and roofscape of the highest quality. Views into and out of the city are therefore important to appreciate its historical form and architectural character and make a significant contribution to the CA's character and appearance and, thereby, its understanding and significance. These include from the other important heritage assets identified above, listed in the *Draft Oxford Central Conservation*

Area Appraisal as public viewing panoramas, and the assets themselves also contribute positively to the character and appearance of the CA.

17. Cantay House is situated within the Western Fringe Character Area and the historic core area of the city. It has a fine principal façade and, along with other commercial and institutional uses in Park End Street, it makes a significantly positive contribution to its street scene. However, modern additions to it are of lesser quality, including the taller tower at its rear that existing antennae and the equipment affixed to it.
18. In the immediate context of Cantay House, views of the existing antennae and supporting structures are limited due to the configuration of surroundings buildings of similar height. Nevertheless, they project above its roof and are perceptible from Worcester Street and from the service road providing rear access to Cantay House and through domestic archways in St. Thomas' Street. It is also likely they would be visible from neighbouring buildings. Despite this, they have limited prominence in the context of the overall CA and share similarities with the plant and other machinery commonplace within the roofscape of the CA.
19. Notwithstanding the general characteristics associated with the scale and grain of buildings that replaced those comprehensively cleared in this part of the city in the 1960s and 1970s, there are few detractors that affect views into and out of the city. Moreover, the existing antennae and their supporting structures are a minor part of the overall roofscape panorama experienced toward the Western Hills from the assets and from Rayleigh Park. They therefore neither contribute in a positive nor negative manner to the townscape and roofscape of the CA and the skyline of the historic core of Oxford, so have a neutral effect upon it.

Effect of the Proposal

20. The Verified Views and Photomontages in the HSoC are not contested by the Council and illustrate that the proposal would project further above the rooftop of Cantay House and the antennae would be more visually prominent from all the heritage assets than those existing. Moreover, due to the angle of the view from its lower height, the projection above the roof and surrounding built form against the backdrop of the Western Hills would be of greater prominence when viewed from the Motte.
21. Although the historic core of the city is sensitive to the introduction of tall buildings, the increase in height and overall scale of the proposal would be modest in the context of the wider panorama from the assets, and the space between the antennae and dishes would ensure views continue to perforate beyond the tower toward the Western Hills and Rayleigh Park. I am also mindful that it would be perceived in the context of the surrounding townscape and roofscape, including modern built form. Accordingly, the contribution made by views from the heritage assets to their settings would not be harmed, so the settings would be preserved along with the contribution toward understanding of their significance. For these reasons, the proposal would also not harm the skyline of the historic core of the city, including the views toward it from Rayleigh Park, as the verified views demonstrate it would have limited prominence from there.

22. As indicated in the HSoC, when viewed from Worcester Street the proposal would also be more prominent over the roof of the building immediately east and set against the sky above. However, in the context of this view, there would be a limited change to the visual prominence of the equipment in situ and this would not be harmful to the character and appearance of the CA.
23. Moreover, unlike listed buildings, the significance of a conservation area is more widely experienced. Under such circumstances, proposals must be judged according to their effect on a conservation area as a whole and must therefore have a moderate degree of prominence. Given my findings in relation to the views from the other heritage assets and the degree of change that would result in views from Worcester Street, the proposal would have limited prominence within the CA. Furthermore, it would not have a harmful effect on the character and appearance of the CA, which would be preserved.
24. In this context, I am satisfied that it would not be necessary to further consider whether an alternative site should be considered, as advocated by the Council.

Conclusion on the Main Issue

25. For the above reasons, I conclude that the proposed development would not have a harmful effect on the character and appearance of the site and its surroundings, including the skyline of the historic core of the city of Oxford; and it would preserve the setting of the Grade I listed buildings known as 'St George's Tower, St Georges Chapel Crypt and D Wing Including the Debtors Tower' and 'Well House Oxford Castle', the Grade II listed building, known as 'Carfax Tower, Tower of the Church of St Martin Carfax', the Scheduled 'Oxford Castle and earlier settlement remains', and the character and appearance of the CA. Hence, the proposal would satisfy the requirements of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; and the design and heritage aims of Policies DH1, DH2 and DH3 of the Oxford Local Plan 2036⁵ (LP) and Framework paragraphs 205 and 206. For similar reasons, the proposal would also not conflict with LP Policy V9, referred to in the Officer Report, which relates to design of new electronic communications infrastructure.

Other Matters

26. I have considered the Council's argument that the grant of planning permission would set a precedent for other similar developments. However, no directly similar or comparable sites, containing existing telecommunications equipment, have been put forward to which this might apply and, in any event, each proposal must be determined on its individual merits. A generalised concern of this nature does not therefore justify withholding permission in this case.

Conditions

27. In addition to the standard time limit for the appeal, in the interests of clarity and the setting of the heritage assets and the character and appearance of the CA, I have specified the approved plans and that the materials should be as referred to in the application documents. However, I have omitted the tailpiece to the latter, as it would circumvent the statutory route to vary conditions and deprive interested parties of the opportunity to comment.

⁵ Adopted 8 June 2020.

Conclusion

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

Paul Thompson

INSPECTOR