The Planning Inspectorate

Appeal Decisions

Site visit made on 13th February 2017

by Jonathan G King BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 March 2017

3 Appeals at 98 Clayton Street, Newcastle upon Tyne NE1 5PG

- All appeals made by Notemachine UK Ltd. against the decisions of Newcastle-upon-Tyne City Council.

Appeal A

Ref: APP/M4510/W/16/3163536

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The application Ref 2016/1463/01/DET, dated 13th September 2016, was refused by notice dated 10th November 2016.
- The development proposed is an ATM installed through the existing glazing to the left hand side of the shop entrance; the removal of the white composite panel and the reinstatement of the glazing. No illumination to the ATM surround.

Appeal B

Ref: APP/M4510/Y/16/3163532

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent for alterations, extension or demolition of a listed building.
- The application Ref 2016/1464/01/LBC, dated 13th September 2016, was refused by notice dated 10th November 2016.
- The development proposed is the same as for Appeal A.

Appeal C

Ref: APP/M4510/H/16/3163544

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The application Ref 2016/1465/01/ADV, dated 15th September 2016, was refused by notice dated 10th November 2016.
- The advertisement proposed is a non-illuminated Free Cash Withdrawal sign above the ATM fascia. No illumination to the ATM surround.

Decisions

1. All 3 appeals are dismissed.

Procedural matter

2. As the ATM is already installed, all 3 appeals relate to retrospective applications for permission or consent.

Main Issues

3. The main issues in this case are:

   (a) whether the development would preserve the listed building or its setting or any features of special architectural or historic interest which it possesses;

   (b) whether the development would and preserve or enhance the character or appearance the Central Conservation Area; and

   (c) the effect of the signage on amenity.

Reasons

The site and its surroundings

4. The shop which is the subject of the appeal is within a Grade II Listed Building, namely a 4-storey stone-built terrace dating, I understand, from the 1830s. It fronts a short section of the north-west side of Clayton Street, which lies between Finkle Street and Westgate Road within the Central Conservation Area of Newcastle. The shop has a modern front, which includes a glass doorway incorporating advertising, the ATM which is the subject of these appeals to its left and a window to the right. The former is set into a black panel incorporating signage and surrounded by advertising; and the latter is backed by a prominent bright coloured scrolling electronic display as well as displaying goods for sale. Above all three elements are adverts; and there is a large horizontal panel at the top of the shop front displaying its name and a further large advert. To either side of the door are narrow vertical advertising panels. It is fair to say that most of the ground floor street frontage of the premises is covered in dense advertising of one sort or another.

5. This short part of the street frontage also includes a shop and an ice-cream parlour, also both with modern fronts. Above, the remaining 3 storeys of the listed building appear wholly or mainly unaltered, displaying the classical simplicity and symmetry characteristic of late Georgian buildings. Opposite is a barbers, a betting shop and, on the corner with Westgate Road, the O2 Academy, a former cinema, now a performance venue with a distinctive appearance. Beyond Finkle Street, Clayton Street continues on both sides with mostly modern shop fronts of varying designs at street level and broadly unaltered facades above. It has the character of a secondary shopping street, with bookmakers, a casino, fast food outlets, charity shops, hairdressers and shops of various sizes.

6. On my visit I noted 2 other ATMs in the street: at "Cash Converters", which charges for its use; and at a repair shop, which offered free withdrawals.

The legal and national policy background and the approach to decision taking

7. The National Planning Policy Framework (NPPF) defines both conservation areas and listed buildings as "designated heritage assets".

8. The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) contains the following statutory duties in relation to them:

   Section 66(1) - In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

   Section 72(1) - In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2)3, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

9. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to its conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through (amongst other things) alteration of the asset or development within its setting. As heritage assets are irreplaceable, any harm to a grade II listed building should be exceptional. Where a proposed development will lead to substantial harm to or total loss of significance of a heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or where a number of specific circumstances apply (none of which are relevant to the present case). 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, including securing its optimum viable use.

The effect on the Listed Building and the Conservation Area

10. I consider all of the appeals together by reference to all 3 issues.

11. As described above, the shop front is dominated by advertising which, according to the Council, does not have consent. However, other than the non-illuminated "Free Cash Withdrawals" sign which is subject to Appeal C, none of the other advertising is before me at present. I do not know whether the Council intends to take action with respect to the unauthorised advertisements, either to regularise the situation or to seek their removal or alteration; nor, if it did, whether it would be successful. If the adverts were to be stripped away, the shop front would be revealed as a being of a simple modern design that, while not enhancing the character and appearance of the building and its setting, is at least reasonably plain and unobtrusive, with its 3 main elements broadly reflective of the uniform rows of original windows that sit above them.

12. In the hypothetical absence of the unauthorised advertising, I take the view that the insertion of the ATM would represent a fairly small but nonetheless reasonably prominent feature of the shop front. I accept that no features of special architectural or historic interest to the listed building would be directly or physically harmed, because the original ground floor frontage has already been wholly replaced. Nonetheless, the presence of the ATM would tend to detract from the simplicity and symmetry of the Listed Building as a whole. In those circumstances, the ATM would be capable of having an individual impact with the potential to harm the listed building and, to a lesser extent, the

character and appearance of the conservation area. That would cause "less than substantial harm" to the heritage assets for the purposes of applying the provisions of the NPPF.

13. As things stand, the existing advertising has a greater harmful impact on the building and its setting than would the ATM alone. It creates a garish context for the ATM, such that the machine and its signage represent a comparatively minor addition, with consequently limited visual impact. Rather than appearing as an individual prominent feature, as it might if the shop front were not so cluttered, it forms a part of a larger incoherent jumble of intrusive signs and commercial advertising. Nonetheless, the ATM has the effect of consolidating that jumble, thereby aggravating and intensifying the visual harm to the listed building and the conservation area already being caused by the unauthorised advertising.

14. Moreover, while recognising the uncertainty over whether action may be taken to remove the advertising and the outcome of any such action, I take the view that it would be wrong to grant permission / consent for the ATM now. I believe that to do so could be seriously prejudicial to the ability of the Council to address the appearance of the shop front as a whole. In short, it would represent a piecemeal approach to an issue that demands a comprehensive planning response.

15. To my mind, by reference to the obligations placed on the Council under the Act in respect of listed buildings and conservation areas, I conclude that the development fails to preserve the building and would also fail to preserve or enhance the character or appearance of the area. The signage is not, in itself, particularly intrusive. It is plain, not illuminated and less prominent than much of the existing (albeit unauthorised) advertising. Even so, it contributes to the cumulative visual impact of the ATM and the advertising, something which the NPPF says should be taken into account when considering whether it should be subject to control in the interests of amenity. In context, it contributes to the overall harm I have identified above.

16. Against that background, I consider that the development and the signage would be contrary to relevant policies of the of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-30, notably Policies CS15 *Place making* which requires development to respond to local design and conservation guidance; Policy UC12 *Urban Design*, which says that development will provide a co-ordinated approach in order to deliver higher quality locally distinctive places; and UC14 *Heritage* that expects development to maximise opportunities to sustain and enhance the significance of heritage assets and their setting.

17. I acknowledge that saved Policy R1 of the former Unitary Development Plan seeks to maintain and enhance the vitality and viability of shopping centres. The ATM offers some public benefit insofar as passers-by may obtain cash conveniently to use in the shops and other premises in the vicinity. The record of transactions at the ATM shows that it is well used. But there are already other ATMs in Clayton Street, including one that is free for withdrawals. Consequently any benefit by reason of convenience to the public, residents and local businesses or by reducing the need to travel as asserted on behalf of the appellant is very minor. Applying the approach of the NPPF, it does not outweigh the "less than substantial harm" to the heritage assets.

18. I have also had regard to the other policies brought to my attention on behalf of the appellant, but to my mind they do not assist.

Overall Conclusions

19. I conclude that the development and the signage is unacceptable for the reasons given above, and that consequently planning permission, listed building consent and advertisement consent should not be granted. The appeals therefore fail.

Jonathan G King
Inspector