



Appeal Decision

Site visit made on 3 September 2019

by J M Tweddle BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2019

Appeal Ref: APP/M4510/Z/19/3231734

Gable wall of 98 Byker Bank, Newcastle upon Tyne NE6 1LA

- 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 appeal is made by Mr Rob Smith (8 Outdoor) against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref 2019/0343/01/ADV, dated 27 February 2019, was refused by notice dated 26 April 2019.
 - The advertisement proposed is described as a 'replacement of a 48-sheet internally illuminated mechanical scroller advertising display with a 48-sheet internally illuminated digital advertising display. Display of illuminated static images on a 10 second rotation. No special effects including animation, flashing, or fading. Illumination: Day max 600 candela/sqm. Night max 300 candela/sqm.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address has been described in different terms on the application form, decision notice and the appeal form. For clarity, I have used the address provided by the Council on their decision notice as this appears to be a more accurate reflection of the site's location.
3. At my site visit I could see that the digital display screen and its surrounding frame have been installed but was not displaying any advertisements at the time of my visit. I shall proceed to consider the appeal on this basis.
4. The Council's reason for refusal includes reference to paragraphs 193, 194 and 196 of the National Planning Policy Framework (the Framework). However, these policies apply only to heritage related consent regimes as set out by the Planning (Listed Buildings and Conservation Areas) Act 1990, and therefore are of no relevance to the appeal proposal.

Main Issue

5. The main issue is the effect of the advertisement on the amenity of the area, with particular regard to the setting of the 'Byker Wall' housing estate, a group of Grade II* listed buildings.

Reasons

6. The Regulations¹ and the Framework state that advertisements should be subject to control only in the interests of amenity and public safety. Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest².
7. The appeal site is the north facing gable elevation of a two storey building currently in use as a restaurant. The building is a former public house dating back to the mid-late 19th Century. It is a remnant of the mid-19th Century development that occupied this area of Newcastle prior to the development of the Byker Wall housing estate in the 1970s, and therefore it possesses a degree of heritage significance.
8. The surrounding area is characterised by a mix of residential and commercial uses intersected by the busy A193 public highway and elevated Metro railway, both immediately to the north of the site. The site's immediate context is dominated by the impressive curved perimeter wall of Northumberland Terrace which is a Grade II* listed building, to the rear of the appeal site, and one of the earliest phases of the Byker Wall housing estate. In fact, the north facing section of Northumberland Terrace is of particular interest due to its patterning in contrasting brickwork which forms the letters 'BYKER' in a semi-abstract pattern. Therefore, the appeal building forms part of a key view of this part of the listed building and is an integral part of its historic setting.
9. The 48 sheet digital advertisement screen takes up approximately half of the gable elevation of the host property, measuring 6 metres in width and 3 metres in height. Travelling from the west on the A193, and from the north on the B1312, the advertisement is highly visible, with the listed building providing an imposing backdrop to the site. The advertisement and adjacent listed building are also clearly visible when traveling along the elevated Metro railway from the west. As a consequence of its size, positioning and height off the ground, the advertisement dominates the foreground and degrades public views towards the historic Byker Wall, detracting from this key view of the heritage asset.
10. Its LED method of illumination would, whilst in accordance with brightness levels in relevant guidelines, result in an obtrusive feature that is detrimental to the character and appearance of the area. Furthermore, whilst the display images would be static and not involve flashing lights or animation, it would change every 10 seconds. Therefore, I find the proposed digital advertisement screen to be prominent and obtrusive in public views and would have an adverse visual effect on the setting of the listed building at a key viewpoint and detrimental to the heritage significance of the host building.
11. The appellant suggests that the surrounding context is more of a commercial character with retail units, fast food outlets, a supermarket, petrol station, and a car park and is therefore viewed alongside other commercial advertisements and transport infrastructure. I accept that such commercial uses exist within the wider surrounding area, but these are physically separated from the site by the intervening public highway and elevated Metro railway and is therefore not

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

² Regulation 3(2) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

- viewed in the same context. Furthermore, I did not see other large advertisement hoardings or LED digital displays, of the scale proposed, in the immediate locale.
12. The appellant disputes that the proposed advertisement would have any adverse impact on the setting of the listed building due to its physical distance and separation from the designated heritage asset and its confinement within the gable elevation of the host building. They also state that the proposal would not result in the loss of any historic buildings. I accept that there would be no loss of historic fabric, however, I am mindful of the Framework's definition of 'setting' as being the surroundings in which a heritage asset is experienced. Therefore, the setting of a heritage asset is a much wider concept and can include views towards listed buildings, as in this case, and in which such assets can be appreciated. Accordingly, I consider the site to form part of the setting of the listed building and, for the reasoning set out above, I find the proposal to be harmful to this setting.
13. It has been put to me that the proposed digital advertisement is a replacement of an internally illuminated scrolling display of a similar scale and siting that has been present on the site for over 10 years and therefore benefiting from a deemed consent. In this context the appellant suggests that the site is an established location for an advertisement of the type and scale proposed. However, I have not been provided with any substantial evidence to support this claim and in any case the proposal is for an LED illuminated digital display which materially differs to that of an internally illuminated scrolling advertisement. I have therefore considered the proposal on its own individual merits.
14. Given the size, location and method of illumination, I conclude that the proposal would significantly harm the visual amenity of the area, with particular regard to the setting of the Byker Wall, a Grade II* listed building.
15. I have taken into account the provisions of the development plan, so far as they are material, in accordance with the Regulations³. Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne and Policies C2 and EN1.1 of the Newcastle upon Tyne Unitary Development Plan, together, seek to secure high quality development and safeguard the historic environment, including the setting of listed buildings. I have concluded that the proposal would harm the amenity of the area and be harmful to the setting of a listed building and therefore it would not meet these policy expectations.

Conclusion

16. For the reasons I have set out, and having regard to all other material factors raised, I conclude that the appeal should be dismissed.

Jeff Tweddle

INSPECTOR

³ Regulation 3(1) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007