



Appeal Decisions

Site visit made on 11 January 2022

By E Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal A Ref: APP/M4510/W/21/3286459

Os The Law Courts, Quayside, Newcastle, NE1 3LA

- 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 Mr Thomas Johnson, JCDecauxUK against the decision of Newcastle City Council.
 - The application Ref 2021/1030/01/DET, dated 14 May 2021, was refused by notice dated 30 September 2021.
 - The development proposed is the erection of freestanding open access communication structure with an integral defibrillator and digital screens following removal of existing payphone.
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Appeal B Ref: APP/M4510/H/21/3286460

Os The Law Courts, Quayside, Newcastle, NE1 3LA

- 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 Thomas Johnson, JCDecauxUK against the decision of Newcastle City Council.
 - The application Ref 2021/1029/01/ADV, dated 14 May 2021, was refused by notice dated 28 September 2021.
 - The advertisement proposed is the display of 2 no internally illuminated digital display screens.
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Decisions

1. Appeal A is allowed and planning permission is granted for the erection of freestanding open access communication structure with an integral defibrillator and digital screens following removal of existing payphone at Os The Law Courts, Quayside, Newcastle, NE1 3LA, in accordance with the terms of application Ref 2021/1030/01/DET, dated 14 May 2021, and the plans submitted with it, subject to the conditions in Annex A.
2. Appeal B is allowed and express consent is granted for the display of 2 no internally illuminated digital display screens as applied for. The consent is from five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the four supplementary conditions set out in Annex A.

Procedural Matters

3. As set out above, there are two appeals on the site. I have considered each proposal on its own individual merits. However, the electronic communication hub and advertisement are inextricably linked in each case. Therefore to avoid duplication I have dealt with the two appeals together having regard to the

independent requirements of both the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) for the proposals on each site.

4. In respect of Appeal B, Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the National Planning Policy Framework (the Framework) both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Regard does not need to be had to the development plan. Nonetheless, whilst the policies referred to by the Council have not by themselves been decisive for Appeal B, I have taken them into account as a material consideration.
5. Since they provide a more accurate and concise description of the proposals, I have used the descriptions given on the Council's decision notices in the headings above in the interests of clarity.

Main Issue

6. The main issue for both appeals is the effect of the proposals on visual amenity and the character and appearance of the area, including whether they would preserve the settings of nearby listed buildings and the Newcastle Central Conservation Area.

Reasons

7. The proposed freestanding multifunctional communication hub would be 2.6 metres high and 1.3 metres wide. Its front façade would include a telephone handset, an induction and USB charger, a 32 inch touchscreen (to allow access to the internet, and to provide local information including access to the Council's webpages and to aid wayfinding around the city), an integral defibrillator and a solar panel to the canopy. The reverse of the hub features a larger 86 inch LCD advertisement screen which would display a series of static images. This features an ultra HD resolution designed to be visible outdoor and in direct sunlight with an automatic dim function.
8. The appeal site is part of the wide pavement outside the Law Courts on the Quayside. The Quayside is an important route for a range of transport modes and a leisure and events destination, and the Law Courts are recognised by the Council as a distinctive landmark building there. There are also a number of listed buildings nearby, notably the Grade II* Tyne Bridge (Ref: 1248569) to the west, with the Swing Bridge and the High Level Bridge beyond all of which are characteristic features of the river Tyne. Additionally the Grade II listed Love Lane Warehouses (Ref: 1086999) are located on the Quayside further to the east of the site.
9. The appeal site is also close to the Newcastle Central Conservation Area which is a short distance to the west. This covers much of the central area of Newcastle and includes the distinctive historic quayside frontage along the Tyne. The river is a key defining feature of the city, characterised by wide panoramic views across the Tyne Gorge and including the iconic listed bridges.
10. The settings of these listed buildings and the conservation area, and the contribution they make to the significance of those assets, in so far as relating to these appeals, is derived from the open nature of the quayside, its important

role as an area of high quality public realm and its ability to provide wide ranging views of the river and its surroundings.

11. The National Planning Policy Framework (the Framework) defines setting as the surroundings in which a heritage asset is experienced. The appeal site forms part of a wide area of open pavement and sits within an important area of public realm close to the river that provides a broad panorama of the quayside. There is inter-visibility to varying extents between the appeal site, the listed buildings and the conservation area, and some contextual views of those heritage assets include the appeal site. Thus the appeal site has a visual relationship with the nearby historic buildings/structures and the conservation area, and therefore contributes to their settings. I have had special regard to this matter in considering the appeals.
12. Turning to the effect of the scheme, the proposals would see the replacement of an existing communications unit on the site which has a double sided traditional advertisement panel. They would introduce a new more modern multipurpose hub structure that would include and integrated internally illuminated digital display advertisement screen facing westwards, and a smaller information screen facing eastwards. I accept that due to its illuminated nature, this would be of a greater visibility and prominence than the existing unit.
13. That said, the proposals would be positioned within an extensive section of the pavement close to the road edge. They would be within an expanse of public realm next to the river which provides a broad sweeping area from which to appreciate the nearby buildings, including the bridges and the conservation area. The immediately adjacent Law Courts and warehouse buildings further to the east are substantial in scale and height and positioned close up to the back edge of the pavement. Additionally there is other existing street furniture nearby including a bus stop, bollards, street lighting, along with a taxi rank sign and other highway signage commensurate with the predominantly commercial nature of the area.
14. Due to their simple form and limited scale the proposals would be a small element in this overall context. Their materials and external finish would be generally in keeping with the character of the area and given their position and orientation they would sit comfortably in the street scene. The illuminated nature of the proposed digital displays would not be out of step with the surrounding commercial properties. Furthermore the intensity of the illuminance of the advertisement could be controlled via a condition, as could the hours of its illumination (such that it would not be illuminated throughout the night and early hours of the morning). These measures would ensure that the advertisement is not unduly bright or displayed for unnecessarily long and continuous periods through-out the night time.
15. On this basis I am satisfied that the proposals would not unduly interrupt or detract from any important views or vistas into or across the Tyne Gorge. This includes those of the nearby heritage assets, which are experienced in a wide and expansive view where the bridges in particular are elevated and some distance away from the appeal site. Nor would the proposals detract from the appearance of the Quayside more generally as an important corridor, undermine the civic role of the Law Courts and their role as a landmark building, or compromise the surroundings in which the listed Love Lane

warehouses are experienced. This would be so even appreciating that the illuminated nature of the advertisement would be evident during some daytime and evening hours of darkness, as well as during more gloomy weather conditions.

16. Taking all these factors into account, I am not persuaded that the proposals would appear as incongruous or unexpected additions to the street scene. Nor would they be unduly distracting features that would affect the appreciation of the nearby heritage assets or impinge on their important visual and historic relationships with the quayside. Thus I am content overall that the proposals would not erode any of the elements which contribute positively to the special interest and significance of the nearby listing buildings or to the historic importance of the conservation area. Accordingly the proposals would not detract from the settings of those heritage assets or the ability to appreciate and understand them. That the proposals are of a standard design that is not unique to the city does not alter my view.
17. I therefore conclude on the main issue that the proposals would cause no harm to the visual amenity and the character and appearance of the area, and would preserve the settings of nearby listed buildings and the Central Conservation Area. Thus there would be no conflict with Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne (Core Strategy) which requires development to respond positively to local distinctiveness and character (1 i) and respect and enhance significant views and the setting of heritage assets (1 iv).
18. The proposals would support Core Strategy Policy UC5 which identifies the Quayside as a secondary pedestrian route which will be a focus for improvement to ensure an attractive, safe and better linked area. They would also accord with Core Strategy Policy UC12 which seeks to deliver higher quality locally distinctive places in terms of architecture and public realm and indicates that development will (amongst other things) be designed to respect and enhance the positive characteristics and context (1).
19. The proposals would adhere to Core Strategy Policy UC13 which seeks to respect important public views where there will be a presumption against development proposals that would cause significant harm. Views that will be respected include those from or across or onto the Tyne Gorge (1), from defined major movement corridors/routeways (2), and of designated heritage assets, other distinctive landmark buildings and structures (3). They would also support Core Strategy Policy UC14 which seeks to respect the historical legacy, varied character and appearance of the environment and advises that development will maximise opportunities to sustain and enhance the significance of heritage assets and their settings.
20. Furthermore, there would be no conflict with DM16 of the Newcastle upon Tyne Development and Allocations Plan (DAP) which requires development to ensure that its design, location, siting, form, and appearance conserves or enhances the significance of the heritage asset, its setting and surrounding key views (1) and consider any additional impacts on the setting of heritage assets including the degree of permanence of any impact (2), or with DAP Policy DM20 which requires development to deliver high quality sustainable design. Thus, overall there would be no conflict with the development plan when taken as a whole, or with the advice in the Framework.

21. Although DAP Policy DM21 is included on the decision notice for Appeal B, since this applies to proposals which include shop frontages it is not relevant to the proposals and I have not considered it in the context of these appeals.

Other Matters

22. Paragraph 114 of the Framework indicates that an advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being. The Framework also seeks to support the expansion of electronic communications networks. This counts in favour of Appeal A. A defibrillator, data connection point and further services are included within the proposed hub which are also benefits that count in favour of Appeal A.

Conclusion and Conditions

23. For the reasons set out, both Appeals A and B are allowed.
24. With regard to Appeal A, in addition to the standard time limit, a condition requiring the development to be carried out in accordance with the approved plans is necessary as it provides certainty. Given the nature and location of the appeal proposals a pre-commencement condition requiring the submission for approval and subsequent implementation of a Construction and Maintenance Method Statement is necessary.
25. With regard to Appeal B, the standard advertisement conditions are required in the interests of safeguarding visual amenity and public safety. Further conditions are necessary to control the display of prismatic, scrolling or other moving components, images or special effects and the smooth transition between advertisements, as well as to control the time between successive displayed images in the interests of public safety. I also find that conditions are needed to control the intensity of the illumination of the advertisement to that specified by the appellant, and to limit the times at which it is illuminated in the interests of visual amenity.

E Worthington

INSPECTOR

Annex A

Appeal A

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: Site location plans for Site 10 Os The Law Courts Quayside Newcastle in Communication Hub Proposals May 2021 Site Map and Visuals document; and Unit Elevations and Visual Imagery drawings in Hub Detail – New Sites document.
3. Development shall not commence until a Construction and Maintenance Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Construction and Maintenance Method Statement shall be adhered to throughout the construction period and when maintenance is carried out. The Construction and Maintenance Method Statement shall, where applicable, provide for:
 - i. details of any temporary traffic management measures required;
 - ii. access routes and vehicles;
 - iii. the parking of vehicles of site operatives and visitors;
 - iv. the loading and unloading of plant and materials during construction and maintenance;
 - v. the use and operation of the public information display and telephone; and
 - vi. the remediation of the site upon removal of the hub structure.

Appeal B

1. No part of the advertisement shall contain any prismatic, scrolling or other moving components, images or special effects.
2. The minimum time between successive displayed images shall be 10 seconds.
3. The intensity of the of the illuminance of the advertisement shall be no greater than 600Cdm² during hours of darkness.
4. The advertisement permitted by this consent shall only be illuminated between 06.00 and 23.00 hours.