



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/21/3286439

Os No. 2 Head of Steam PH, Neville Street, Newcastle, NE1 5EN

- 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 2021/1016/01/DET, dated 14 May 2021, was refused by notice dated 28 September 2021.
 - The development proposed is the erection of freestanding open access communication structure with an integral defibrillator and digital screens.
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Appeal B Ref: APP/M4510/H/21/3286442

Os No. 2 Head of Steam PH, Neville Street, Newcastle, NE1 5EN

- 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 2021/1015/01/ADV, dated 14 May 2021, was refused by notice dated 29 September 2021.
 - The advertisement proposed is the display of 2 no internally illuminated digital display screens.
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Decisions

1. Appeal A and Appeal B are both dismissed.

Procedural Matters

2. 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.
3. 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.

4. 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 Issues

5. The main issues for Appeal A are whether the communications hub would preserve or enhance the character or appearance of the Central Conservation Area, and whether it would preserve the settings of nearby listed buildings, as well the effect of the proposal on the safety of pedestrians and cyclists.
6. The main issue for Appeal B is the effect of the advertisement on visual amenity.

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 pavement outside the Head of Steam public house which is opposite the central station. It is on Neville Street within the Central Conservation Area which covers much of the city centre and historic core of Newcastle. Neville Street is one of the principal streets in the conservation area and connects with Grainger Street, Westgate Road and Collingwood Street. The character and appearance of the conservation area includes a variety of high quality historic buildings in a formal urban setting with wide thoroughfares flanked by tall buildings and high quality public realm. I consider that the significance of the conservation area, in so far as it relates to these appeals is mainly derived from the quality and variety of the historic buildings and the relationships of these to each other and the spaces, streets and public realm around them that make up the distinctive and cohesive townscape of the city centre.
9. The appeal site is an open area in a key and prominent roadside position that forms part of an important area of public realm and allows wide ranging views to be taken along Neville Street. It is also at a primary gateway to the city centre on approach to and from the central station that supports the first and last impressions of visitors to Newcastle. Thus the appeal sites contributes positively to the historic character and appearance of the conservation area.
10. There are a number of listed buildings nearby. These include the Grade I listed central railway station building (Ref: 1355291) which dates to 1850 and is built in sandstone in a classical style, and the adjacent Grade II listed Royal Station Hotel (Ref: 1104900). These imposing buildings are opposite the appeal site on the other side of the road. The George Stephenson Memorial is immediately to the east of the appeal site and set within an island area of pavement

surrounded by roads. It is a Grade II* listed building (Ref: 1338572) built in sandstone and bronze.

11. There are also a number of listed buildings beyond the memorial further to the east. These include: the Grade II* listed Neville Hall and Wood Memorial Hall (Ref: 1024739); the Grade II listed Bolbec Hall (Ref: 1024738); the Grade II* listed Literary and Philosophical Society (Ref: 1121954); the Grade II listed Sun Insurance Buildings (Ref: 1355250); and the Grade II listed Barclays Bank and Collingwood Buildings (Ref: 1115694). Additionally the crown of the tower and spire of the Grade I listed Cathedral of St Nicholas (Ref: 1355309) which originates from the mid 14th century, is visible in views down Neville Street above these buildings.
12. Despite their different ages and architectural styles and types, and accepting that they all have their own particular features of interest and significance, there is nevertheless a cohesiveness to this impressive concentration of city centre buildings. Thus, this grouping of heritage assets has a shared significance. Insofar as relating to these appeals, this common significance is derived from their historic interest as city centre buildings which collectively provide evidence of the role and status of the city and its historic development. The settings of these buildings, and the contribution they make to the significance of those assets, in so far as they relate to these appeals, is derived from the rich historic character of the urban townscape and its buildings, streets and spaces.
13. The National Planning Policy Framework (the Framework) defines setting as the surroundings in which a heritage asset is experienced. This remarkable collection of buildings are close to the appeal site, some over-look it or border it, and others form part of the back drop to it. Overall I consider that there is inter-visibility to varying extents between all the identified buildings (or groups of buildings) and the appeal site, and that some contextual views of the buildings include the appeal site. Thus the appeal site has a visual relationship with the buildings and the urban streetscape, and therefore contributes to their settings. I have had special regard to this matter in considering the appeals.
14. Turning to the effect of the scheme, the proposals would introduce a hub and illuminated advert to the outer edge of the pavement which runs along the northern side of Neville Street. Neville Street and the surrounding roads are busy mixed use thoroughfares, with a pronounced commercial presence and large scale premises lining the streets. Nevertheless, the proposals would be prominently located in what is currently an open and relatively uncluttered expanse of high quality and attractive public realm. This is so despite the presence of bollards to the highway edge and other street furniture and highway infrastructure nearby. As such, even taking into account the surrounding commercial context and appreciating that the Head of Steam public house is a relatively modern building, the bulk, height and composition of the kiosk with its various components would be an obtrusive addition to the clean and uncluttered open streetscape.
15. The open and unobstructed nature of the appeal site and the surrounding pavements allow clear channelled views in both directions along Neville Street, including eastwards towards Collingwood Road and Westgate Road. The proposals would partially interrupt those clear vistas on what is a busy thoroughfare outside the station and a key point of arrival and departure for

many visitors to the city. The proposals would fail to maintain the open views across the public realm that characterise the conservation area and allow an appreciation of the important historic townscape nearby, and as a result would detract from their surroundings and stand out as an incongruous and jarring addition to the site.

16. Consequently, the proposals would not preserve or enhance the character or appearance of the conservation area. The main advertising screen would be confined to the size of a standard 6 sheet advertisement which is a common feature of town centres. Nevertheless, the scale and illuminated, digital nature of the advertisement would draw further attention to the structure and would combine to have a negative effect on the quality and character of the vistas.
17. In introducing modern and prominent built form into an open area of pavement, the proposals would unacceptably detract from the public realm and historic townscape and diminish the contribution of the settings of the nearby buildings to their significance. For these reasons I find that the proposals would fail to preserve the settings of the nearby listed buildings. In undermining the settings, which also contribute to the historic significance of the conservation area, the proposals would also detrimentally affect how the conservation area is experienced. I therefore consider that the proposals would cause harm to the significance of the conservation area and would fail to preserve its character and appearance.
18. In coming to this view I have had regard to the existing communications hub to the west of the appeal site on Neville Road (which is also in the conservation area and opposite a listed building). Whilst I note the appellant's view that the backdrop to that existing development is similar to that in the case of the appeal scheme, the merits of that existing development are not before me for consideration, and I am not aware of the full circumstances that led to its approval. In any event, that existing hub is further to the west in a different part of Neville Street and does not share the same relationship with the nearby buildings and streetscape as the appeal site. Thus, I do not regard that existing development to justify the appeal scheme or to be a reason to allow development that would be harmful.

Heritage Balance

19. I therefore conclude that the proposals would be harmful to the visual amenity of the area and would not preserve or enhance the character or appearance of the conservation area or preserve the settings of the nearby listed buildings. I give this harm considerable importance and weight in the balance of these appeals.
20. The Framework advises at paragraph 199 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. I find the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.
21. Paragraph 202 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.

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. A data connection point and further services (including access to online facilities and wayfinding) are included within the proposed hub. The hub would complement the existing portfolio of units in the city centre which are well used, and provide a multifunctional, reliable and innovative communications facility powered by green energy. The integral defibrillator would also provide important life-saving equipment.
23. These are all public benefits which count in favour of Appeal A. However, since there are other hubs nearby in the vicinity of the appeal site and across the city, this limits the weight I afford to these benefits, which in practical terms would only be modest.
24. Accordingly, I give the public benefits arising from these matters only limited weight. No other public benefits have been put forward which would outweigh the harm to the designated heritage assets I have identified. Thus, I find that overall the public benefits of the proposals would not outweigh the harm to the significance of the designated heritage assets that I have identified.
25. The proposals would thus be contrary to 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). They would conflict with Core Strategy Policy UC5 which identifies primary and secondary pedestrian routes which will be a focus for improvement to ensure an attractive, safe and better linked area. They would also undermine 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).
26. The proposals would fail to 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. They would also fail to 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.
27. Furthermore, there would conflict with Policy DM15 of the Newcastle upon Tyne Development and Allocations Plan (DAP) which deals with the conservation of heritage assets and requires development to ensure that the significance of a conservation area is preserved or enhanced, and with DAP Policy DM16 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). Finally the proposals would fail to conform with DAP Policy DM20 which requires development to deliver high quality sustainable design. 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.

28. For these reasons the proposed development and works would fail to satisfy the requirements of the Act and paragraph 197 of the Framework and would be in conflict with the development plan.

Safety of pedestrians and cyclists

29. The Council does not regard the advert to have a detrimental impact on public or highway safety, but is concerned about the effect of the hub on the free flow of pedestrians and cyclists. The pavement outside the Head of Steam is a shared use footway and forms part of Newcastle's cycle network. Neville Street is a primary pedestrian route where Core Strategy Policy UC5 seeks to provide attractive and safe pedestrian links and the Council is looking to reduce street furniture.
30. As set out above, the proposals would be located towards the edge of the pavement area where aside from the roadside bollards, there are no other obstacles or street furniture. This being so, pedestrians and cyclists are currently free to travel along the pavement unencumbered in what is a busy and shared thoroughfare close to the station. Whilst the proposals would be visible to oncoming pedestrians and cyclists, they would narrow the pavement and limit the currently available space there. By their nature they would introduce an obstruction to the footway that would constrict the channel for movement, and which pedestrians and cyclists would need to navigate their way past. This additional street clutter would make this section of the busy thoroughfare a more awkward area for pedestrians and cyclists to negotiate and cause inconvenience to users.
31. I therefore conclude on this main issue that the proposal under Appeal A therefore has the potential to have a detrimental effect on the safety of pedestrians and cyclists. This would be contrary to Core Strategy Policy UC5 and Core Strategy Policy CS13 which concerns transport and seeks to protect and enhance pedestrian routes, and DAP Policy DM10 which requires the provision of safe, convenient, attractive and continuous pedestrian and cycle links.

Other matters

32. As set out above, whilst the proposal under Appeal A would lead to some public benefits and are supported in principle by the Framework, I have found that these would be insufficient to outweigh the less than substantial harm to the heritage assets and visual amenity that I have identified. I also confirm that even taken together, and in combination with any private benefits of the proposals, these benefits are insufficient to outweigh the harm to the safety of pedestrians and cyclists considered above.

Conclusion

33. For the reasons set out, and having regard to all other matters raised, both Appeals A and B are dismissed.

E Worthington

INSPECTOR