



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/21/3286446

Os NEXT Newgate St jnc Blakett St, Newcastle, NE1 7XA

- 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 2021/1022/01/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/21/3286448

Os NEXT Newgate St jnc Blakett St, Newcastle, NE1 7XA

- 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 2021/1021/01/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 proposed hub would preserve the settings of nearby listed buildings and the Newcastle Central Conservation Area, and its effect on the safety of pedestrians.
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 a wide area of pavement outside Next on the corner of Blakett Street and Newgate Street. It is at a broad busy road junction in a commercial urban context characterised by both modern and historic buildings.
9. It is close to a number of listed buildings. Notably the Grade I listed Church of St Andrew (Ref: 2204887) is opposite the site on the other side of Newgate Street. This charming sandstone medieval church of 12th century origins is one of the city's oldest buildings and retains its walled churchyard fronting the road. It has is an important and enduring presence in this part of the city and is testament to its evolution over time.
10. Further to the south and west is the Grade II listed Co-operative Stores on Newgate Street (Ref: 1105676) which is an imposing four storey sandstone building built in a distinctive art deco style in the early 1930s. There are also listed buildings on Gallowgate opposite the appeal site including the four storey Grade II listed building at 1-15 Gallowgate (Ref: 1024862), and the six storey Grade II listed building at Andrew's House (ref: 1024722).
11. 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 collection 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 and evolution.

12. The site is also close to the Newcastle Central Conservation Area which is on the other side of Newgate Street immediately to the west. This covers much of the central area of Newcastle and is characterised by a variety of high quality historic buildings in a formal urban setting with wide thoroughfares flanked for the most part by tall buildings and high quality public realm.
13. The settings of the nearby 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 rich historic character of the urban townscape and its buildings, streets and spaces.
14. 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 wider area of open pavement/public realm adjacent to Next. There is inter-visibility to varying extents between all the identified historic buildings and the appeal site, and some contextual views of the buildings include the appeal site. Thus the appeal site has a visual relationship with the buildings and the conservation area, and therefore contributes to their settings. I have had special regard to this matter in considering the appeals.
15. Turning to the effect of the scheme, the proposals would introduce a hub and illuminated advert to the wide section of pavement outside Next. It would be set well in from the roadside edge in front of a large raised planter which protrudes into the wider area of public realm and narrows the pavement immediately to the south of the appeal site.
16. Newgate Street, Blakett 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 clear expanse of public realm. Although there is a small communications box immediately adjacent to the wall of Next, along with a good deal of street furniture and transport infrastructure associated with the nearby busy road junction immediately to the north (including railings to the highway edge, traffic lights, lighting, signage and other street furniture), in my view the appeal site and its immediate surroundings remain for the most part open and uncluttered.
17. As such, even taking into account the surrounding commercial context and appreciating that Next is a substantial and modern building with a large open glass shopfront, the bulk, height and composition of the kiosk with its various components would be an obtrusive addition to its immediate environment and the open streetscape there.
18. The open and unobstructed nature of the appeal site and the surrounding pavement allows views in both directions along Newgate Street. Due to their location set in from the roadside edge and in the context of the stepped building line to the south, I accept that the proposals would not directly interrupt or obscure those views looking southwards or westwards towards the nearby historic buildings or the conservation area.
19. Nevertheless, the proposals would introduce a prominent and strident modern feature that would be distracting in views of the nearest historic buildings on the other side of Newgate Street and the conservation area. Notably, the Church of St Andrew which is immediately opposite the appeal site has a close visual relationship with the appeal site, and as a Grade 1 listed building is of

exceptional interest in terms of its architecture and history. As an unduly discordant and obvious feature the appeal proposals would be visually dominant and would compromise the appreciation of the important historic townscape nearby. In doing so it would detract from and erode the surroundings in which the church and the other historic buildings nearby are experienced.

20. The main advertising screen would face northwards and 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 surrounding area and would fail to support the creation of an attractive pedestrian route.
21. In introducing conspicuous built form into an open area of pavement, the proposals would unacceptably detract from the public realm and nearby historic townscape and diminish the contribution of the settings of the nearby buildings and conservation area to their significance as described. For these reasons I find that the proposals would fail to preserve the settings of the nearby listed buildings and the conservation area and would detrimentally affect how these heritage assets are experienced.

Heritage Balance

22. I therefore conclude that the proposals would be harmful to the visual amenity of the area and would not preserve the settings of the nearby listed buildings or the conservation area. I give this harm considerable importance and weight in the balance of these appeals.
23. 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.
24. 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.
25. 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.
26. 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.

27. 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.
28. The proposals would therefore 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).
29. 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.
30. Furthermore, there would conflict with Policy DM10 of the Newcastle upon Tyne Development and Allocations Plan (DAP) which requires the provision of attractive pedestrian links, and DAP Policy DM15 which deals with the conservation of heritage assets and requires development to ensure that the significance of a conservation area is preserved or enhanced. The proposals would also be at odds 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.
31. 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

32. The Council's reason for refusal does not indicate that the advert would have a detrimental impact on public or highway safety, but the Council is nevertheless concerned about the effect of the hub under Appeal A on the free flow of pedestrians. Blakett Street is a primary pedestrian route, and Newgate Street is a secondary pedestrian route, where Core Strategy Policy UC5 seeks to provide attractive and safe pedestrian links.

33. As set out above, the proposals would be located within a discrete area of footpath and a pedestrian route where there are no other significant obstacles. This being so, pedestrians are currently free to travel along the pavement unencumbered in what is a busy thoroughfare at a road junction.
34. By their nature the proposals would introduce an obstruction to the footway that would narrow the channel for movement, and which pedestrians would need to navigate their way past. However, as set out above, the proposals would be set in from the roadside edge and positioned in a relatively recessed position in line with the large walled planter to the south that protrudes into the area of public realm of which the appeal site forms a part.
35. Due to the narrowing of pavement to the south adjacent to the planter, and also at the corner to the north turning into Blackett Street, in practical terms pedestrians navigating the footpath close to the appeal site already tend to use its outer western edge. I saw at my visit that this allows a more logical and direct route of movement across the space, including towards the pedestrian crossing on its western edge.
36. Taking these factors into account, I am not persuaded that the additional street clutter that would arise as a result of the proposals would interrupt pedestrian flow unduly, or that it would make this section of the pavement a significantly more awkward area for pedestrians to negotiate, such that any particular inconvenience to users would arise.
37. I therefore conclude on this main issue that the proposal under Appeal A would cause no harm to the safety of pedestrians. There would therefore be no conflict in this regard with DAP Policy UC5, Core Strategy Policy CS13 which concerns transport and seeks to protect and enhance pedestrian routes, or DAP Policy DM10 which requires the provision of safe, convenient, attractive and continuous pedestrian and cycle links.

Conclusion

38. Even having regard to the public benefits that would arise, I have found that the proposals would be harmful to visual amenity and would fail to preserve the settings of the conservation area and the nearby listed buildings. They would also be contrary to the development plan and the Framework in this regard. The absence of harm in relation to the second main issue concerning pedestrian safety, counts neither for nor against the proposals.
39. Accordingly, for the reasons set out above, and having regard to all other matters raised, both Appeals A and B are dismissed.

E Worthington

INSPECTOR