



Appeal Decision

Site visit made on 23 October 2023

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2023

Appeal Ref: APP/M4510/Z/23/3325273

The Old Glassworks, Lemington Road, Newcastle upon Tyne NE15 8SX

- 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 Mandale Investments Limited against the decision of Newcastle Upon Tyne City Council.
 - The application Ref 2023/0630/01/ADV, dated 19 April 2023, was refused by notice dated 22 May 2023.
 - The advertisement proposed is 1no. frame mounted advertisement (comprising 2no. adjoining boards) (retrospective).
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Decision

1. The appeal is allowed, and express consent is granted for the display of the 1no. frame mounted advertisement (comprising 2no. adjoining boards) (retrospective) as applied for. The consent is subject to the five standard conditions set out in the Regulations¹ and the following additional condition:

1) The advertisement hereby permitted shall be removed from the land on or before 19th April 2025 unless a further consent of the Local Planning Authority has been obtained.

Application for costs

2. An application for costs was made by Mandale Investments Limited against Newcastle Upon Tyne City Council. This application is the subject of a separate decision.

Preliminary Matters

3. In its Officer Report the Council has referred to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). However, this requires that special attention shall be paid to the desirability of "preserving or enhancing the character or appearance" of a Conservation Area (CA), yet from the evidence before me, the appeal site is not within a CA.
4. Instead, the Council has assessed and refused the advertisement in relation to the setting of the nearby grade II* listed building known as the Lemington Cone. The statutory duty under section 66(1) of the Act requiring decision makers to have special regard to preserving the setting of a listed building or any features of special architectural or historic interest, only applies to the consideration of whether to grant planning permission. Nonetheless, the Regulations advise that factors relevant to 'amenity' include the general characteristics of the locality, including the presence of any feature of historic,

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

architectural, cultural or similar interest, which would encompass listed buildings. Therefore, the location of the site in relation to the listed building is relevant to the consideration of 'amenity'.

5. The advertisement is in situ and is proposed on a temporary basis until 19th April 2025 to advertise the availability of units being developed on the land. I am therefore dealing with the appeal retrospectively and have assessed it on this temporary basis.

Main Issue

6. The main issue is the effect of the advertisement on the visual amenity of the area having regard to the setting of the grade II* listed building known as the Lemington Cone.

Reasons

7. The advertisement is positioned near the footway along the A6085. Along this part of the road are commercial units such as supermarkets and industrial units, along with residential properties. There are numerous signs along the road in association with commercial activities. Planting is also prevalent along the south side of the road with intermittent open views possible between gaps in vegetation.
8. The Lemington Cone (the cone) is positioned on the south side of the A6085 and is a short distance from the location of the advertisement. It was a former glassworks dating to the late 18th century and is constructed of English bond brick. Its significance in so far as it relates to this appeal lies in its architectural and historical interest due to its high quality of materials, striking appearance and historical associations with the glass manufacturing industry.
9. It is highly dominant in the wider landscape due to its height rising considerably above the surrounding buildings. Its height is largely a consequence of its historical industrial function. Nonetheless, its striking cone shaped appearance makes a positive contribution to the visual amenity of the area. The cone is experienced from the A6085 in gaps through the vegetation. The appeal site forms part of a larger area that adjoins the cone and currently forms one of those gaps in the vegetation.
10. When approaching the cone from the west, prior to the roundabout on the A6085, there are views across the appeal site of the cone. There is little to indicate that these views were designed or historic views but they are part of the way that the cone is presently experienced. The cone appears to be the only part of the former glassworks remaining. Nevertheless, the cone's position in a commercial/industrial setting can still be experienced in those views. As such, the views from the A6085 makes a positive contribution to the special interest/significance of the cone albeit to a very small degree given the restricted size of the appeal site and the size of the overall area from which the cone can be experienced.
11. To the west of the roundabout along the A6085 and its footway, the advertisement appears directly in the line of sight of the cone. Its elevated position above the units it advertises in this open gap means it appears exposed and diverts attention away from the experience of the cone. However, the advertisement's position immediately in the foreground of the cone is fleeting as one moves along the route.

12. The advertisement is also clearly visible from the approach to the roundabout from the north, and from nearby residential properties. However, it is not an unduly large advertisement when seen in combination with vegetation either side of the open gap, the cone, streetlamps, and road signs. From the eastern approach along the A6085 the advertisement is not experienced directly in tandem with the cone and appears more isolated in the gap between vegetation.
13. Overall, as the cone is experienced from a wide area, the views of the advertisement in combination with the listed building would represent a very small intrusion into its open setting. The advertisement also advertises the availability of the units below during works and would be a temporary feature along a road where signs are a characteristic feature and frequently experienced with the cone. In this context, the advertisement would not appear inappropriate, out of context or a permanent feature in views. These matters combine to mitigate the very small harm from the advertisement's presence in views with the listed building.
14. I therefore conclude that the advertisement does not have a harmful effect on the visual amenity of the area having regard to the setting of the Lemington Cone, a grade II* listed building. The Council has cited the National Planning Policy Framework, Policy CS15 of the Core Strategy and Urban Core Plan and Policy DM20 of the Development and Allocations Plan in its refusal of consent. I have taken them into account as material considerations. However, the power to control advertisements under the Regulations may be exercised only in the interests of public safety and amenity. Consequently, they have not, in themselves, been decisive in my determination of the appeal.
15. I recognise that there may have been alternative positions for the advertisement within the land controlled by the appellant. However, this, the appellant's motives for selecting this position or its retrospective nature are not matters for my consideration and I have assessed the appeal on its own merits.
16. Both parties have referred to the previous totem sign that was in situ at the site. However, it was removed several years ago, and I have no substantive evidence of a consent for it. As such, its previous presence on the site has not weighed in favour of the scheme before me.
17. In addition to the 5 standard conditions, I have also imposed a condition to be consistent with the temporary nature of the advertisement. The appellant's proposal is for the advertisement to be displayed until 19th April 2025. Accordingly, I have included a condition requiring its removal on or prior to this date in the interests of the amenity of the area.
18. For the reasons given above, the appeal is allowed, subject to the conditions specified.

Mr R Walker

INSPECTOR