



Appeal Decisions

Site visit made on 7 February 2024

By E Worthington BA (Hons) MTP MUED MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 18 April 2024

Appeal A Ref: APP/M4510/W/23/3334480

O/S 32-34 Neville Street, Newcastle, NE1 5DF

- 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 Ben Porte, New World Payphones against the decision of Newcastle City Council.
 - The application Ref 2023/1312/01/DET, dated 23 August 2023, was refused by notice dated 29 November 2023.
 - The development proposed is the replacement of existing double telephone kiosk with new single telephone kiosk which includes integrated digital advertising display.
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Appeal B Ref: APP/M4510/H/23/3334478

O/S 32-34 Neville Street, Newcastle, NE1 5DF

- 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 Ben Porte, New World Payphones against the decision of Newcastle City Council.
 - The application Ref 2023/1311/01/ADV, dated 23 August 2023, was refused by notice dated 29 November 2023.
 - The advertisement proposed is the replacement of existing double telephone kiosk with new single telephone kiosk which includes integrated digital advertising display.
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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 telephone kiosk 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. On 19 December 2023 the government published its revised National Planning Policy Framework (the Framework). Whilst this post-dates the evidence provided by the main parties in relation to these appeals, since the revised Framework's approach to the main issue in this case has not altered significantly, I confirm that all references to the Framework in this decision are to the updated 2023 version.

Main Issue

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

Reasons

The listed buildings and the conservation area

6. The proposals seeks the removal of an existing black double telephone kiosk from the site and its replacement with a new single telephone kiosk incorporating an integrated digital LCD screen. The appeal site is part of the wide pavement on Neville Street outside the County Hotel which is opposite the central station and is within the Central Conservation Area which covers much of the city centre and historic core of Newcastle.
7. 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.
8. The appeal site is an open area in a key and prominent pavement position that forms part of an important area of public realm where wide ranging views can 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.
9. 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. It includes an impressive main entrance portico with keyed arches framed in paired Doric pilasters under an entablature with a frieze and parapets with pilasters. This commanding and iconic building occupies a key city centre position and is recognised as being of the highest national significance and of exceptional architectural and historic interest.

10. The Grade II listed County Hotel at 32 Neville Street (Ref: 1104930) is immediately adjacent to the appeal site and opposite the station. Though of a less grandiose scale, this attractive hotel with shop units to the ground floor is built in sandstone ashlar with a purple slate roof and copper domes. The main south elevation frontage is built in a decorative Baroque style over five storeys with an attic and nine bays. It includes a projecting quoined centrepiece with recessed door and distinctive cast iron porch with a balcony.
11. Despite their different ages and architectural styles and types, and accepting that they have their own particular features of interest and significance, there is nevertheless a cohesiveness to these city centre buildings which have a shared significance. Insofar as relating to these appeals, this common significance is derived from their historic interest as important landmark city centre buildings which collectively provide evidence of the role and status of the city of Newcastle and its historic development in an important gateway location. 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.
12. The Framework defines setting as the surroundings in which a heritage asset is experienced. The station is opposite the appeal site, and the County Hotel is immediately adjacent to it. As such both are close to the appeal site, they over-look it or border it, and form part of the back drop to it. Overall I consider that there is inter-visibility to varying extents between the identified 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.

The effect of the scheme

13. The proposed kiosk would replace the existing double kiosk with a single structure incorporating an integral advertisement display which would face west. It would incorporate more modern and inclusive features including a multi-functional communication interface with a telephone system that accepts card payments, a 24 inch LCD display providing interactive wayfinding capability, a WiFi access point, and location based information. The proposed kiosk would utilise an existing telecommunications site, and since it would replace an existing structure, it would not increase visual clutter or affect pedestrian movement in Neville Street.
14. The existing kiosks date to the 1990s and have a generally utilitarian and boxy design. However, they have a generally open and opaque design incorporating a good deal of glazing. Despite their somewhat worn and tired appearance, the existing kiosks sit comfortably in the street scene where their traditional design and in my view their generally low key appearance respects the historic character of the surrounding area.
15. The replacement kiosk would have a smaller footprint than the existing kiosks, and although it would be slightly taller and wider, it would not be as deep. It would be constructed in black powder coated steel with a composite roof and is intended to be a distinctive modern kiosk which would reflect the design influence and heritage of traditional phone boxes. The Council raises no specific objections to the kiosk itself and finds that the black colour and

- straightforward design would blend into the mix of street furniture without appearing conspicuous. However, the Council is concerned about the digital display screen (which was considered to be an integral part of the kiosk).
16. The appellant does not indicate otherwise, or suggest that the display of the advertisement and the construction of the kiosk should be considered separately as part of the appeal. Indeed both elements are included in the description of development for the planning appeal. The appellant advises that the advert element is an integral part of the design and pivotal to the funding of the overall rationalisation programme.
 17. The internally illuminated digital display screen would measure 1635mm by 924mm wide and would be recessed behind toughened glass. It would display a sequence of static advertising images on rotation that would change no more frequently than every 10 seconds. Images would not contain any movement, animation or flashing lights, and the interchange between each advertisement would be a gradual and smooth fade. The display would be illuminated to levels recommended by the Institute of Lighting Professionals, and the brightness would be reduced in periods of darkness. During the day when ambient light levels are significantly greater, the display would be regulated by sensors that monitor and adjust luminance according to the prevailing conditions. These matters could be secured via conditions.
 18. Neville Street is a busy city centre thoroughfare flanked by substantial and tall commercial properties. There is a good deal of street furniture including bus shelters, taxi ranks, street lights, bollards, sign boards, parking bays, cycle stands, scooter parking and traffic signals. There are modern glazed shopfronts in the County Hotel building and illuminated signs on shopfronts and within stores nearby. Overall it is a well-lit and vibrant commercial area.
 19. Nevertheless, despite being confined to ground level and sitting below street lamp level, due to its scale and strident illuminated digital nature, the proposed screen would be highly visible when travelling eastwards along Neville Street. On approach from the west, it would be seen in shorter range views in the middle of the pavement in very close proximity to the County Hotel's distinctive projecting portico entrance. It would also be appreciated within the immediate context of that building's impressive traditional front elevation. To my mind, it would stand out as a prominent and highly distracting, bold and intrusive feature that would compete visually with, and detract from that listed building and its fine architectural features and traditional form.
 20. Although it would be sited further away from it and side on to it, in longer range and wider views the screen would be appreciated alongside the station building on the other side of the road and seen in the same general context and street scene as it. Again, it would be appreciated as a jarring and discordant addition to the wider street scene that would draw attention away from that important listed building and the historic streetscape.
 21. A previous proposal for the display of an internally illuminated digital LCD panel to a telephone kiosk at the appeal site was dismissed at appeal¹ in 2016 due to its effect on heritage assets. The appellant argues that the planning landscape has changed since that decision, particularly given the approval² of a Street

¹ APP/M4510/Z/16/3159002

² APP/M4510/Z/20/3248317

- Hub with an integral screen to the east of the appeal site in Neville Street. I also note the appellant's argument that the previous appeal concerned an advertisement only and so did not consider the planning merits of the kiosk.
22. However, the existing Street Hub is in a different part of Neville Street and does not form part of the same immediate street scene as the appeal proposals. That screen faces east and is seen on approach from the north and east with the County Hotel and the Central Station in the background. It is well separated from these heritage assets and, whilst it is within the conservation area, does not share the same relationship with the nearby buildings and historic streetscape as the appeal site. Thus, I do not regard this existing development to justify the appeal scheme or to be a reason to allow proposals that would be harmful. Additionally, in the context of that nearby installation, I have some sympathy with the Council's concern that the appeal proposals would lead to an undue proliferation of such kiosks/screens in what is an important gateway location to the city.
23. Bringing matters together, I find that even taking into account the surrounding commercial context and changes in the area including the existing advertisements there, the proposals would be appreciated as a brash and discordant addition to the street scene that would appear at odds with, and draw away from, the important traditional streetscape and nearby heritage assets.
24. In introducing an intrusive and distracting feature, the proposals would unacceptably detract from the public realm and historic townscape and would 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 visual amenity and to the significance of the conservation area and would fail to preserve its character and appearance. That there is no objection from the Conservation Advisory Panel does not alter my view.
25. In coming to this conclusion, I accept that there are other kiosks and adverts in the city, the type, design and appearance of which are not alien or unfamiliar to the Council. The appellant refers to a large installation at the Life Centre and other shelters and kiosks across the city centre in the conservation area and close to listed buildings. I also appreciate the need for consistency in approach towards the determination of applications. That said, the merits of those existing installations are not before me for consideration, moreover, I am not aware of the full circumstances that led to their approval and am mindful that each case must be determined on its own merits.

Heritage Balance

26. 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.

27. The Framework advises at paragraph 205 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 206 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.
28. Paragraph 207 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.
29. The appellant refers to various elements of the Framework which lend support to the proposals. Paragraph 85 states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Paragraph 96 requires planning decisions to achieve healthy, inclusive and safe places and beautiful buildings. Paragraph 118 indicates that an advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being, and that planning policies and decisions should support the expansion of electronic communications networks. Paragraph 119 encourages the use of existing structures for new electronic communications capability, and paragraph 120 states that local planning authorities should not impose a ban on new electronic communications development in certain areas.
30. Additionally, I have had regard to the appellant's reference to the UK Digital Strategy which indicates that the government is committed to seeing the enormous potential of the digital sector. Furthermore I note that Policy DM35 of the Newcastle upon Tyne Development and Allocations Plan (DAP) also supports the proposals and recognises the development of telecommunications and digital infrastructure as an important driver for both the local and national economies that helps to deliver social and economic growth. The appellant also refers to other local plan policies including Policy CS14 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne (Core Strategy) which relates to wellbeing and health and requires development to be inclusive and accessible (amongst other things).
31. The existing kiosks are outmoded in terms of their equipment, and appellant aims to install new modern telecommunication infrastructure and technology and services which better meet the needs of society. The kiosk would be open to allow access for all users including accessibly impaired, and in improving natural surveillance it would reduce anti-social behaviour. The advertisement screen could display Council communications to local residents and visitors free of charge. The upgrade programme is in part funded by revenues from the proposed advertising associated with the new kiosks. These are all public benefits. However, since there are other kiosks across the city, this limits the weight I afford to these benefits of the proposals, which in practical terms would only be modest.
32. The proposals are part of a rationalisation and consolidation programme with kiosks being removed to enhance the public realm in Newcastle. Notably, a red single kiosk located to the north, outside 19-25 Westgate would be removed. I accept that the removal of this would be a benefit to the street scene and character and appearance of the conservation area there. This is also a public benefit of the proposals.

33. However, in contrast to the appeal scheme, that single kiosk is of a traditional glazed design and does not incorporate digital displays. Additionally, it is not within the immediate vicinity or context of the appeal site. Accordingly I am not persuaded that its removal would mitigate the visual impact of the appeal proposals that I have described. Moreover, whilst appreciating that the appeal scheme and the removal of that additional unit is part of a wider consolidation programme, I have seen nothing to demonstrate that the removal of that kiosk is necessarily reliant on the appeal scheme per se.
34. The appellant refers to the commitment to plant a tree for every kiosk proposed for upgrade. No further details of that scheme have been provided and I have seen no agreement with the Council in this regard. Accordingly, I give very little weight to this potential public benefit.
35. Thus, I find that even taken together, overall the public benefits of the proposals would not outweigh the harm to the significance of the designated heritage assets that I have identified.
36. The proposals would thus be contrary to Core Strategy Policy CS15 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 UC11 which relates to gateways and arrival points and seeks to ensure a strong distinctive entrance and sense of arrival. 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).
37. Furthermore, there would be conflict with 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, 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.
38. For these reasons the proposed development and works would fail to satisfy the requirements of the Act and paragraph 203 of the Framework and would be in conflict with the development plan.

Other matters

39. The appellant refers to other kiosks and advertisements that have been approved or allowed on appeal elsewhere including in London and Wakefield. However, I am not aware of the full circumstances that led to those approvals so cannot be sure that they are the same as in the case before me. In any event, I confirm that I have considered the appeals on their own merits and made my own assessment as to their impacts.

Conclusion

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

E Worthington

INSPECTOR