The Planning Inspectorate

Appeal Decision

Site visit made on 3 April 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th May 2024

Appeal Ref: APP/W4515/W/23/3334924
Geisha Asia/Geisha Italia, Front Street, Benton, Newcastle upon Tyne NE12 8AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr John Paul Gardner on behalf of Geisha Leisure Limited against the decision of North Tyneside Council.
- The application Ref is 23/01002/FUL.
- The development proposed is 'fairy' lights on front elevation.

Decision

1. The appeal is allowed and planning permission is granted for 'fairy' lights on front elevation at Geisha Asia/Geisha Italia, Front Street, Benton, Newcastle upon Tyne NE12 8AE in accordance with the terms of the application, Ref 23/01002/FUL, subject to the following conditions:

   1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

      - 1781-GEI-SD-111-Rev D (Proposed Elevations)
      - Decorative Lighting Assessment

   2) The fairy lights hereby approved shall only be permitted to be switched on during the months of October to April each year and shall be turned off no later than 23:00 hours on any day.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

3. Based on the evidence before me and at my site visit, the fairy lights have already been installed and the application was submitted retrospectively. I have therefore considered the appeal on this basis.

4. The description of development is taken from the application form. However, I have removed reference to the word 'retention' as this is not an act of development.

5. Retrospective planning permission[1] has been granted for a number of alterations to the appeal building including painting of the render and brickwork, railway sleepers and decorative artificial planting, with a further application[2] for advertisement consent granted for new illuminated signage. These works have been undertaken and were visible during my site visit.

Main Issue

6. The main issue of the appeal is the effect of the development on the character and appearance of the area, with particular regard to whether it preserves or enhances the character or appearance of the Longbenton Conservation Area.

Reasons

7. The appeal site comprises a late 20th century detached, two-storey building which is currently in use as a restaurant. Immediately to the front and side of the building are areas of hardstanding used to accommodate parking provision. Unlike the buildings either side of the site, it is set back from Front Street and is clearly a modern addition to this part of the street scene. The site is bounded by residential development (Cheviot View, Carolyn Close, and The Terrace) and The Ship Inn public house. The front of the site is bound by Front Street (A191) beyond which lies the residential properties of St Bartholomew's Court.

8. Although a predominantly residential area, the immediate surrounding area to the appeal site consists of a small number of commercial premises including The Ship Inn and a used car sales business. It is also in a location where street lighting and other exterior lighting is present.

9. The appeal site is located within the Longbenton Conservation Area (LCA). The significance of the LCA lies in its surviving medieval core, and the pattern of development. It is acknowledged that later development has eroded some of this character. The appeal site is identified in the LCA Character Appraisal as a substantial, unattractive building. The existing building does not reflect, the form, scale or character of the traditional buildings which contribute positively to the LCA. It is also accepted that the appeal building is of little architectural merit or historic value. Consequently, it does not contribute positively to the significance of the conservation area.

10. Planning permission is being sought for the retention of fairy lights installed on the front elevation of the building. The fairy lights have been installed on the first floor of the building and extend for most of the width of the building. They are located between two illuminated signs and comprise a number of led string lights with 'cool-white' colour temperature.

11. When non-illuminated the fairy lights by virtue of their dark wiring are not a prominent feature of the building and are not particularly visible against a dark grey backdrop. The lighting, as you would expect, is more visible when illuminated. However, the external lighting forms part of a wider programme of improvement works to the building and in this context do not cause harm to the character and appearance of the host building, which is a commercial premises.

[1] Planning Application Ref: 23/00588/FUL
[2] Planning Application Ref: 23/00589/ADV

12. The existing building is set back from Front Street with the built form of The Terrace and The Ship Inn situated forward of the restaurant. This set back and the positioning of adjacent buildings assists in reducing views of the building when travelling along the main road. Therefore, views of the building are restricted to a specific part of the conservation area. As such, I find that the lighting does not result in harm to the visual amenity of this part of the conservation area.

13. Whilst I accept that the lighting is not sensitively located. It is a temporary form of lighting, which is intended to draw attention to the business and as a consequence, it requires a prominent and visible location. However, for the majority of the time the lighting is not switched on. The Appellant has put forward a condition to limit its use to certain months of the year and no later than 11pm each day, to align with premises opening hours. This is supported by the Decorative Lighting Assessment which accompanied the application.

14. As outlined above the significance of the LCA is derived primarily from its building pattern and surviving medieval core. The appeal site does not contribute to this significance. Therefore, the alteration of the building, which is part of a wider scheme of works does not cause harm to the significance of the LCA.

15. For the above reasons, I conclude that the proposal does not have an adverse effect on the character and appearance of the appeal property or the surrounding area and preserves the character and appearance of the LCA. Consequently, I find no conflict with Policies DM6.1 and DM6.6 of the North Tyneside Local Plan 2017-2032 (2017), which require, amongst other things, a high and consistent standard of design, which sustains and conserves the significance of heritage assets. Similarly, I find no conflict with the Framework which seeks to ensure developments are sympathetic to local character and history.

Other Matters

16. In relation to living conditions, and potential for harm arising from light pollution, the application was supported by a Decorative Lighting Assessment which found that the proposal does not cause harm to living conditions of neighbouring properties. It recommended the imposition of a planning condition which would require the lighting to be switched off no later than 11pm. The Council accepted these findings. Based on the evidence before me, I see no reason to disagree with the Council's conclusion.

17. I have also had regard to third party concerns over highway safety, loss of privacy, noise disturbance and wildlife, amongst other things. These matters were before the Council when it determined the planning application and did not feature in the reasons for refusal. Based on the evidence before me, and from my own observations, I have no reason to disagree with the Council's assessment of these matters. Consequently, the other matters raised do not lead me to a different conclusion.

18. The Council states that the appeal site is within the setting of Grade II Listed Buildings known as Ethal Williams Hall and the Milepost. I have a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with regards to listed buildings and their setting.

19. The significance of Ethal Williams Hall[3] (formerly known as the Northern Counties Orphanage) is derived from its architectural and historic interest. Built in 1734, the building has been used as a vicarage, orphanage and is currently a university hall of residence. In terms of its architectural significance constructed of coursed, irregularly squared sandstone, Welsh slate roof and ashlar chimneys. The significance of Ethal Williams Hall[4] (formerly known as North House) is derived from its architectural interest being a two-storey mid-18th century building, with later 19th century alterations. The significance of the Milepost[5] is derived from its historical interest as a late 19th or early 20th century milepost detailing the distance to North Shields and Newcastle with directional arrows.

20. However, given the distance between the appeal site and these listed buildings, as well as the presence of intervening buildings, the proposal would be screened from views to and from both Ethal Williams Hall buildings and the Milepost. Therefore, the development does not affect the setting of these designated heritage assets and thus their setting would be preserved.

Conditions

21. I have had regard to the Council's suggested conditions and considered these against the statutory tests outlined in the National Planning Policy Framework and the advice in the Planning Practice Guidance. I have made amendments as necessary to comply with these documents and for clarity, consistency, and reasonableness.

22. As the development has been substantially completed it is not necessary to include the standard time limit condition. However, it is necessary to include a condition (1) that specifies the approved plans in order for clarity and precision over the development that is approved by this decision.

23. In addition, a condition (2) which restricts the use of the lighting to certain months of the year, and which requires it to be turned off no later than 11pm each day is also necessary to protect the living conditions of neighbouring occupiers.

Conclusion

24. For the reasons given above, and having regard to all other matters raised, I conclude that the development complies with the development plan as a whole. The appeal is therefore allowed.

K Lancaster

INSPECTOR

[3] List Entry Number: 1354992
[4] List Entry Number: 1025390
[5] List Entry Number: 1392672