
Appeal Decisions

Site visit made on 10 January 2025

by **Grahame J Kean BA (Hons) Solicitor MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 June 2025

Appeal A Ref: APP/M4510/H/24/3356940

Pavement Outside 150 Northumberland Street, Newcastle upon Tyne, NE1 7DQ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Urban Innovation Company (UIC) Ltd against the decision of Newcastle Upon Tyne City Council.
 - The application Ref is 2024/1160/01/ADV.
 - The advertisement proposed is 2x (back-to-back) digital LED displays.
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Appeal B Ref: APP/M4510/W/24/3356936

Pavement Outside 150 Northumberland Street, Newcastle upon Tyne, NE1 7DQ

- 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 Urban Innovation Company (UIC) Ltd against the decision of Newcastle Upon Tyne City Council.
 - The application Ref is 2024/1161/01/DET.
 - The development proposed is Installation of “Pulse Smart Hub” with integrated digital screens.
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Formal Decision

1. The appeals are dismissed.

Preliminary Matters

2. There are two appeals on the site. The first relates to the display of advertisements and the second relates to the installation of the apparatus on which the advertisements are to be displayed. The proposals concern one unified structure. The reason for refusal of each application was the same, namely that the proposed development and the proposed advertisements respectively:

“...by virtue of its [sic] scale, design and illumination, would be an obtrusive addition to the surrounding public realm and would result in harm to the future high-quality transformation of Northumberland Street to the detriment of visual amenity. The development would harm the visual amenity of the area contrary to Policies NC1, UC5, UC12 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-30 [CS], and Policy DM20 of the Development and Allocations Plan [2020] [DAP]”.

3. To avoid duplication, I have dealt with the two appeals together having regard to the independent requirements of:
 - Appeal A where the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations), Regulation 17 and National Planning Policy Framework (NPPF) make clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of the

provisions of the development plan, so far as they are material and any other relevant factors.

- Appeal B where s70(2) of the 1990 Act and the consequent application of s38(6) of Planning and Compulsory Purchase Act 2004 (2004 Act) require the decision maker to determine the appeal in accordance with the development plan unless material considerations indicate otherwise.
4. The appellant's statement is a composite document covering appeals for two other locations, not connected to the present appeal site. I have focussed on the statement as far as it concerns the present appeals (there referred to as Appeal 2A and Appeal 2B).
 5. The Council raises no concerns in relation to highway safety. Having regard to the position of the appeal site and the nature of the proposal I see no reason to disagree.
 6. By s66 Planning (Listed Building and Conservation Areas) Act 1990 when considering whether to grant planning permission for development that affects a listed building or its setting, special regard must be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The site is located on the pavement at the northern end of Northumberland Street, outside No 150 and opposite the large modern glass building that is Haymarket Metro Station. The site is in the general vicinity of the Grade II listed South African War Memorial and Grade II* listed Church of Saint Thomas the Martyr.
 7. The officer's report states that the structure is insensitively designed in relation to the setting of the adjacent Grade II* listed buildings but also states in terms that given the distance between the Hub and the heritage assets then the setting of the buildings would not be harmed by the proposal. Despite the apparent ambiguity, I would agree that the proposed development and displays would be far enough away from the heritage assets such that no harm to the listed buildings, their setting or features of architectural or historic interests arises due to the development proposals.

Main Issues

8. Accordingly, the main issues for the appeal are the effects of the proposal on the character, appearance and amenity of the area, and whether any harmful effects would be outweighed by the public benefits of the scheme.

Reasons

9. The advertisement proposed is a display of 2x LED digital static illuminated displays, one on either side of a Pulse Smart Hub.
10. The overall unit would measure 1280mm wide, 350mm deep and 2540mm in height. The main casing of the structure would be red gel coated fibre glass, an allusion to the traditional design of a red telephone box. The structure incorporates the two digital LED display screens of laminated glass, measuring 1660mm high by 930mm wide. The illumination would be static. The intensity of illumination would not exceed 600 cd/m² candelas per square metre during periods of darkness (dusk to dawn) and the daytime intensity of illumination would not exceed 2000 cd/m². The screens automatically adapt to ambient light and can be powered off between midnight and dawn.
11. The structure would provide features such as free phone calls, free charging for devices, free public WiFi, air quality monitoring, public access defibrillator, 999 call function and emergency call button, built-in CCTV monitoring, override protocols for policing purposes, public and emergency messaging, 5% + free community advertising, local maps and wayfinding, public interface and local information and digital advertising to modernise streetscapes. (5% of total screen time on the main two digital screens is given over for free to local organisations, businesses and the community to use daily).

12. The advertisement element of the proposals would comply with the latest standards and current best practice. The public benefits of the appeal proposals has been assessed by the appellant and I agree that these are substantial given the variety of features that the hub offers, summarised above. They are supported by the National Planning Policy Framework (NPPF) in encouraging high quality communications infrastructure as essential for sustainable economic growth. Chapter 10 - Supporting high quality communications - sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.
13. The Planning and Heritage Statement (PHS) at paragraph 10 states that the digital displays are a key element of the proposal *“as they will support the advertising required to make the scheme viable”* without costs to the Council or the public. Weight should be given to the fact that the public benefits would be free at the point of service, however there is no evidence that the appellant is a non-profit organisation or evidence as to revenue streams from the advertisement income and their application. Typically, as the Design, Management and Operational Statement notes, the screens display content at 10-second intervals which includes commercial advertising, with local content provided free of charge. Despite the evident cross subsidy, in my view the unified structure serves a dual purpose, provision of public benefits and advertisement displays.
14. Nonetheless, the proposals would provide significant public benefits. However, since there are other kiosks across the city, this limits the weight afforded to those benefits, although they are more than “modest” as the Council suggests.
15. Northumberland Street is the main shopping street in the city connecting the Haymarket Metro and bus stations, universities, civic centre at the north end to Monument Metro and Eldon Square in the south. The street as a whole has a varied quality, style and appearance. Next to the appeal site to the east are three-storey stone buildings and Haymarket Hub to the west has a similar height and has a modern glazed design. Various street furniture is seen along the street such as public artwork, bollards, railings, signage, bins, traffic lights and telephone kiosks. The area around the appeal site, opposite the entrance to the Haymarket Hub has been kept as an open and wide corridor relatively free from street furniture and clutter of this nature. When I inspected the site there were evidently some works in the immediate vicinity of the appeal site, pursuant to the Council’s transformation programme described further below.
16. CS Policy NC1 concerns the Newcastle Central Sub Area where the appeal site lies. It seeks to improve the environment and accessibility by upgrading the public realm on Northumberland Street, the busiest shopping street in the city. The supporting text includes that there is great potential to enhance the shopping experience through a high quality public realm scheme.
17. The City Centre Transformation Programme is a critical part of the Council’s vision to improve the city centre, funded by the government. This includes transforming Northumberland Street with new paving, seating, greenery, and lighting which is ongoing. The intention is to provide spaces for events and entertainment in a more welcoming place that can be enjoyed both day and night, contributing to an elegant and high-quality environment reinforcing Northumberland Street as the region’s most vibrant and important high street.
18. Other key local plan policies are CS Policy UC5 which identifies the appeal site as within a primary pedestrian route which will be a focal point for public realm investment and DAP Policy DM20 which requires development to deliver high quality and sustainable design by among other things securing opportunities to improve the character and quality of an area and enhancing the appearance of the city from major movement corridors.

19. The supporting text for Policy DM20 encourages spaces that among other things can be successfully accessed and can be adaptable to other uses, requiring consideration as to how buildings and their individual elements are viewed and function together to encourage multiple benefits for all. Design and Access Statements (DAS) should clearly set out how the design of the development addresses the criterion of this policy, other policies in the DAP and the CS.
20. CS Policy UC12 seeks among other things to deliver higher quality locally distinctive places in the public realm whilst CS Policy CS15 requires development to respond positively to local distinctiveness and character.
21. CS Policies UC13 and UC14 are concerned with protecting views including from defined major movement corridors, and designated heritage assets and other landmark buildings, and respecting the historic environment.
22. The officer's report states that DAP Policy DM35 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. Whilst this sentiment appears as a general principle from the supporting text, and I do not resile from it, I do not at all read the policy itself in this way. The policy states in terms that development for new telecommunications infrastructure "*will be required to demonstrate*" a number of things including that "*the site is the most sustainable option*" and that "*there will be no significant impact on visual...amenity, and the character of any building, structure or wider area...*"
23. To my mind this is an in-principle, locational requirement that must be met in the adopted development plan, which is contrary to the appellant's assertion that the proposal is "established in principle". Thus, it would also be incorrect that for planning purposes the principle of the proposed hubs is established. Under the Electronic Communications Code and the Telecommunications Act 2023 development by a telecommunications code system operator may involve permitted development rights under Part 16 GPDO, but the present appealed application does not seek to obtain prior approval for a type of development that is "in principle" established. It therefore seems misleading to state that "*the development...has permitted development rights under Schedule 2, Part 16*" (Planning and Heritage Statement (PHS) paragraph 2), otherwise the appeal before me would relate to prior approval and it does not.
24. In principle within a central, commercial location such as Northumberland Street, street furniture and advertisement content would be appropriate. Indeed, prior approval was granted on appeal at the same location in 2018 (Ref APP/M4510/W/17/3192201) for installation of a public telephone kiosk.
25. On the specific proposed kiosk, which would have been in the same location as the current proposals, it was noted that as to siting and appearance, its position in the street and the width of the pavement at this point would not result in harm to pedestrian safety, and that it was not in a CA. The location of the listed South African War Memorial was such that the kiosk would have no significant impact on its setting. It was concluded that the kiosk, by virtue of its largely glazed design would complement the glazed structure of the station and modern frontages of the adjacent shops.
26. The appellant provides several legal authorities referring to the principle of consistency in decision-making. Previous appeal decisions on similar applications are material considerations. Like cases should be determined in the same way unless there are good reasons not to do so.
27. The appellant's PHS details the design of the unit in great depth, concluding that it "*sits comfortably within the streetscape, with either a modern or historic backdrop*" without any reference to the actual proposed location. Where the PHS does address the proposal

location for the appeals proposal, it does so generically by stating that *“a rigorous site selection process of the proposed locations was undertaken to ensure that collectively the Pulse Smart Hubs will deliver a comprehensive network of connectivity within the Borough [sic] whilst at the same time selecting locations that...avoid unacceptable harm to public amenity [and] avoid harm to the significance of streetscape and heritage assets or their settings...”*

28. The PHS makes clear that the hubs are deliberately aligned where possible, to areas of established “*street furniture zones*”, i.e. including items such as typically the section of pavement between the edge of kerb and clear pathways and comprising amenities and elements such as pay phones, lighting and benches, bus stops and trees for the safety, comfort and convenience of pedestrians and cyclists.
29. The detailed location plan shows the street at this point some 16m wide with the proposed structure set in from the pavement edges some 4m from the eastern edge and nearly 11m from the western edge.¹ This is comparable with the position of the previous proposed kiosk, however the present proposal would be an unwelcome obstruction within the location of the seating and planting and limit the ability to use the space as intended as a wider events space, conflicting with the vision for the use of this part of Northumberland Street. Its siting towards the centre of the street would also in my view appear incongruous in the enhanced public realm setting, an open and relatively clear and uncluttered expanse of public realm, well used by pedestrians. The Council considers that taking into account the surrounding commercial context and appreciating that Haymarket Hub is a substantial and modern building, the siting of the development would be an obtrusive addition to its immediate environment and the current open uncluttered streetscene and use as an events space. I agree with this assessment.
30. Given that these public realm works, as I saw, are now underway to improve Northumberland Street, I disagree with the submission that the physical environment has not materially changed since the 2018 decision. For the same reason I disagree that the considerations remain “*essentially the same in their fundamental elements*” as in the previous appeal.
31. Unlike in the previous appeal, the considerations in respect of this s78 appealed application are not confined to the prior approval matters of siting and appearance and associated matters although of course there must be some overlap in terms of appearance of the area and so forth. Considering s38(6) of the 2004 Act I disagree that the previous appeal decision compels me to decide similarly in favour of the current proposal. Great weight should be given to the Council’s aims set out in CS Policy CS1 and the transformation programme designed among other things to maintain and enhance the character and appearance of this part of Northumberland Street.
32. The main issue for the telephone kiosk appeal was generically described for all thirteen similar appeals in the decision letter, as: “*whether or not approval should be given in respect of the siting and appearance of the development, with particular regard, as appropriate, to whether it would preserve or enhance the character or appearance of the Central Conservation Area, its effect on Listed Buildings, and to include, where relevant, the effect upon highway and pedestrian safety.*” The Inspector dealt with each of the thirteen appeals for different kiosks in different locations on their individual merits.
33. The appeal statement wrongly states that the previous decision concluded that the kiosk would not “*unacceptably add to the clutter of street furniture and signage*”. This statement does not appear in the decision letter as it related to that particular appeal. The letter made several references to clutter in the other appeals but concerning Northumberland Street it was not characterised as having “clutter”. Quite the contrary. He noted it was a

¹ The numbering on the base plan suggests it is nearer to No 148 which appears to be under the same occupation as No 150, but the proposed location itself is not in dispute.

“wide, largely pedestrianized thoroughfare”, experiencing heavy pedestrian flows but was *“very wide and largely open”*. I saw that these general characteristics of the locality obtain at the northern end in the immediate vicinity of the appeal site.

34. The hub would be a more streamlined form than the previous kiosk design with a depth of 400mm as opposed to the 1,110mm depth of the kiosk and its width would be slightly reduced by 0.20mm but there would be a slight increase in height by 500mm from 2.450mm to 2.500mm. The hub would have a 66% reduction in footprint but it does not necessarily follow, as alleged, that it would appear less cluttered in the street scene.
35. Clearly a telephone kiosk might have an additional bulk to it but in terms of overall massing which includes matters such as scale, and relationship to other buildings, the installation of the smart hub and integrated digital screens display units would have a noticeable impact on the street scene. Although slimmer than the kiosk, it would stand in the street at about the same height and present a similar frontage area to pedestrians approaching it directly from up and down the street with the added impact of a solid structure with two digital LED display screens and an advertisement display at least 0.54 metres from the ground with the height of the individual letters and symbols up to 166cms.
36. I doubt many nowadays would readily appreciate in its appearance the allusion to the traditional call box, given the more expansive and prominent display screens and I disagree that “sleek” would appropriately describe its appearance within the street scene. Rather it would appear as a prominent new addition to the relatively uncluttered area in this part of Northumberland Street, visible in views from the north and south from the junction of Northumberland Street with Saint Mary's Place and from the junction with Ridley Place to the south. In particular, the digital screen would appear prominently against the more open and spacious townscape to the north.
37. The works to the northern end of Northumberland Street have already commenced and are ongoing. In this changing context the proposed structure would limit the ability to use the space as intended as a wider events space, conflicting with the vision for the use of this part of Northumberland Street. The Hub materials and its siting towards the centre of the street would also appear incongruous in the enhanced public realm setting and result in harm to the transformation of Northumberland Street to the detriment of visual amenity.
38. An interested person expressed concern about the impact the structure would have on accessibility. Northumberland Street is a very busy thoroughfare and given the proposed positioning of the structure set out from the kerb it would understandably create a potential obstacle for people with mobility or sight issues.
39. The design of the hub would not conflict with the modern commercial designs of the buildings nearby, but it would be positioned on an open and uncluttered part of the pavement area. Consequently, the hub would appear an isolated, prominent and incongruous feature in the street scene such that it would cause harm to the open character and appearance of the area around the Haymarket Hub, including the areas of landscaping and seating currently underway. I attach great weight to such harm. The benefits of the proposals are significant but do not outweigh this harm.
40. I conclude from the foregoing that the proposed advertisements, by virtue of their scale, design and illumination, would be an obtrusive addition to the surrounding public realm and would result in harm to the future high-quality transformation of Northumberland Street to the detriment of visual amenity.
41. The proposed structure including the integrated digital screens would be poorly sited and insensitively designed in relation to the public realm and Northumberland Street improvements causing substantial harm to the character, appearance and visual amenity of the area. The development would constitute poor design and would not comply with the aims of Paragraph 135 of NPPF in seeking well-designed places.

- 42. The harm would be contrary to the requirements and aims of DAP Policy DM35 in failing to demonstrate that the site is the most sustainable option or that there would be no significant impact on visual amenity and the character of the wider area, and CS Policy NC1 in failing to upgrade the public realm on Northumberland Street to a high quality.
- 43. It would also be contrary to the aims of Policy DM20 in not improving the character and quality of the area or ensuring that the space around the site could be successfully accessed and adaptable to entertainment and event uses, and CS Policies UC12 and CS15 in not responding positively to local distinctiveness and character in the public realm.
- 44. Accordingly, I will dismiss both appeals.

Grahame Kean

INSPECTOR