

Appeal Decisions

Site visit made on 19 September 2016

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 October 2016

Appeal A

Appeal Ref: APP/C1055/W/16/3151444

News Xtra, 117 Friar Gate, Derby, DE1 1EX

- 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 New Wave Installations Cardtronics against the decision of Derby City Council.
 - The application Ref DER/03/16/00266, dated 2 March 2016, was refused by notice dated 22 April 2016.
 - The development proposed is described as "retention of an installed ATM through the glazed shop front as a through glass installation to be revised to a non illuminated ATM fascia only. ATM green acrylic non illuminated sign with white lettering to top of ATM fascia".
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Appeal B

Appeal Ref: APP/C1055/Y/16/3151451

News Xtra, 117 Friar Gate, Derby, DE1 1EX

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by New Wave Installations Cardtronics against the decision of Derby City Council.
 - The application Ref DER/03/16/00268, dated 2 March 2016, was refused by notice dated 22 April 2016.
 - The works proposed are described as "retention of an installed ATM to be revised to an ATM fascia only non illuminated through glass installation. ATM fascia green Acrylic non illuminated sign with white lettering "Cashzone"".
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Appeal C

Appeal Ref: APP/C1055/H/16/3151449

News Xtra, 117 Friar Gate, Derby, DE1 1EX

- 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 New Wave Installations Cardtronics against the decision of Derby City Council.
 - The application Ref DER/03/16/00267, dated 2 March 2016, was refused by notice dated 22 April 2016.
 - The advertisement proposed is described as "retention of an installed ATM through the glazed shop front as a through glass installation to be revised to a non illuminated ATM fascia only. ATM green acrylic non illuminated sign with white lettering to top of ATM fascia".
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Decision

1. The appeals are dismissed.

Procedural Matters

2. The Council altered the description of development for the planning application to "retention of an ATM". The description of development for the Listed Building application was altered to "retention of an ATM to the front elevation". These descriptions more concisely describe the development proposed, however, as retention is not an act of development I have determined both appeals of the basis of the description "provision of an ATM". The Council altered the description of development on this application to "display of non illuminated ATM surround". As this more concisely and accurately describes the works proposed I have also used this description.
3. An ATM has already been installed in the building. The applications seek to retain an ATM machine, but to reduce the size of the surround and associated signage, which would be non-illuminated.

Main Issues

4. The main issue for the appeals is whether the works proposed would preserve the Grade II listed building known as 117 Friar Gate, or any features of special architectural or historic interest that it possesses, and whether the proposal would preserve or enhance the character or appearance of the Friar Gate Conservation Area.

Reasons

5. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Policy E19 of the adopted *City of Derby Local Plan Review* (LP) seeks to resist development which would have a detrimental effect on the special architectural or historic interest of a statutory listed building, and this reflects the statutory duty defined in the Act. S72(1) of the Act requires special attention to be had to the desirability of preserving or enhancing the character and appearance of a conservation area. Policy E18 of the LP aims to ensure new development preserves or enhances the special character of the conservation area and this also reflects the statutory duty defined in the Act.
6. 115A – 117 Friar Gate is a Grade II listed building which lies in a predominantly commercial part of Derby City Centre. The building has 3 storeys and is built in red brick. It has a symmetrical appearance with wooden shopfronts which relate to individual retail units sitting either side of the stone dressings which surround the centrally placed door. Its significance as a heritage asset is largely derived from the contribution the attractive and balanced frontage makes to the streetscene.
7. No 117 is occupied by News Xtra. The shop front has large floor to ceiling glazed windows either side of a central doorway. These provide an attractive and open frontage which is in keeping with the age of the building and the traditional character of the buildings around it. The proposal comprises the insertion of an ATM which although smaller than the one installed, would nonetheless occupy a significant proportion of the shop window and would

- protrude beyond the plane of the window. I noted on site that due to the glazed nature of the shop front the rear enclosure of the ATM was clearly visible within the building in views into the site.
8. Therefore, despite the proposed reduction in the fascia size, and the relatively discreet signage, it would still form a prominent feature in views into the site, due to the extent of the glazing it would obscure, the degree to which it would protrude forward of the window, and the visibility of the equipment housing to the rear of the fascia. In these views it would form a bulky and intrusively modern visual element which would represent a significant departure from the prevailing character of the building. As such it would appear incongruous in its setting eroding the prevailing Victorian character of the building.
 9. I take into account that the proposal would provide for disabled access and has been designed with security in mind. I also take into account that existing advertising in the shop windows of the appeal property and some adjacent buildings is also highly visible. The presence of these elements does not justify the further erosion of the underlying character of the building which would arise from the proposal before me. As such, the proposal would fail to preserve the special architectural interest of the listed building, contrary to the relevant sections of the Act which I am required to have special regard to and with Policy E19 of the LP which has similar aims.
 10. The site also lies within the Friar Gate Conservation Area and the surrounding street scene has a number of heritage buildings with the Grade II* Church of St Werburgh and the Grade II former Midlands Gas Board Offices opposite. This provides a cluster of older buildings of traditional character which form an attractive part of the Conservation Area. As the proposal would be visible in the wider streetscene it would also detract from the established character of the area and so would also fail to preserve or enhance the character or appearance of the Friar Gate Conservation Area. It follows that the proposal would be contrary to the relevant sections of the Act and would conflict with Policy E18 of the LP which has similar aims.
 11. The works would affect only parts of the listed building and the harm caused to its significance would thus be less than substantial. It would also impact upon only a very limited part of the conservation area. This harm is nevertheless a matter to which I attribute significant weight which the Framework indicates should be weighed against the public benefits of the scheme. The proposal would provide revenue for the appellant. However, this is primarily a private benefit, and this reduces the weight I can attribute to the matter. It would also provide a facility for the public. However, I have no evidence that alternative similar facilities are not available in the wider area and this limits the weight I attribute to it as a benefit. The benefits of the proposal would be therefore be insufficient to outweigh the harm the proposal would cause to the character of the listed building, or to its significance as a heritage asset, or the harm that would arise to the conservation area. I therefore conclude the proposal would also fail to comply with national policy outlined in the Framework.
 12. Therefore, for the reasons outlined above, and having regard to all other matters raised, I conclude that the appeals be dismissed.

Anne Jordan

INSPECTOR