
Appeal Decisions

Site visit made on 3 October 2016

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 25 October 2016

Appeal A: Ref: APP/C1055/W/16/3153391

Smart News, 8 The Strand, Derby, DE1 1BA

- 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 Cardtronics UK Ltd (trading as CASHZONE) against the decision of Derby City Council.
 - The application Ref: DER/04/16/00479 dated 19 April 2016, was refused by notice dated 15 June 2016.
 - The development proposed is 'a revised scheme for installation of an ATM'.
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Appeal B: Ref: APP/C1055/Y/16/3153392

Smart News, 8 The Strand, Derby, DE1 1BA

- 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 Cardtronics UK Ltd (trading as CASHZONE) against the decision of Derby City Council.
 - The application Ref: DER/04/16/00481 dated 19 April 2016, was refused by notice dated 15 June 2016.
 - The works proposed are 'the installation of an automated teller machine'.
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Appeal C: Ref: APP/C1055/H/16/3153396

Smart News, 8 The Strand, Derby, DE1 1BA

- 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 Cardtronics UK Ltd (trading as CASHZONE) against the decision of Derby City Council.
 - The application Ref: DER/04/16/00480 dated 19 April 2016, was refused by notice dated 15 June 2016.
 - The advertisement proposed is 'the installation of a non-illuminated ATM fascia'.
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Decisions

1. **Appeal A is allowed** and planning permission is granted for the installation of an automated teller machine at Smart News, 8 The Strand, Derby, DE1 1BA in accordance with the terms of the application, Ref: DER/04/16/00479 dated 19 April 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No NW0032A Sheet 2, and Drawing No E012130 Rev 01.
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- 3) The existing automated teller machine (ATM) and surround shall be removed within 6 months of the date of this decision. The date that this work is to be carried out shall be notified in writing to the Local Planning Authority.
2. **Appeal B is allowed** and listed building consent is granted for the installation of an automated teller machine at Smart News, 8 The Strand, Derby, DE1 1BA in accordance with the terms of the application Ref: DER/04/16/00481 dated 19 April 2016, subject to the following conditions:
 - 1) The works hereby authorised shall begin not later than three months from the date of this consent.
 - 2) The works hereby permitted shall be carried out in accordance with the following approved plans: Drawing No NW0032A Sheet 2, and Drawing No E012130 Rev 01.
 - 3) The existing automated teller machine (ATM) and surround shall be removed within 6 months of the date of this decision. The date that this work is to be carried out shall be notified in writing to the Local Planning Authority.
3. **Appeal C is allowed** and express consent is granted for the installation of a non-illuminated automated teller machine fascia at Smart News, 8 The Strand, Derby, DE1 1BA in accordance with the terms of the application dated 19 April 2016. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations, and the following additional condition:
 - 1) The existing automated teller machine (ATM) and surround shall be removed within 6 months of the date of this decision. The date that this work is to be carried out shall be notified in writing to the Local Planning Authority.

Procedural Matters

4. The automatic teller machine (ATM), surround panel, and fascia sign currently installed at the premises is to the dimensions and details shown on the previously refused planning and advertisement applications¹.
5. The scheme before me has been revised in an attempt to address the Council's concerns. The ATM as now proposed would still occupy a similar position on the right hand side of the glass panel within the shopfront. However it has been reduced in size by removing the surround panel previously proposed, and the internally illuminated strip light around the unit has been omitted. The advertisement element would now comprise a smaller green acrylic non-illuminated sign which would sit above the ATM itself.

Main Issues

6. The main issue common to these appeals is the effect of the proposals on the special architectural and historic interest of the Grade II listed building and the character and appearance of the Derby City Centre Conservation Area.

Reasons

7. The appeal building is part of an impressive late nineteenth-century Grade II listed terrace on the northern side of The Strand. The significance of the

¹ DER/01/15/00113 and DER/15/00114

building derives from its unified neo-classical appearance of the upper storeys and unusual sweeping curved façade, and it is an important element within the street scene of the City Centre Conservation Area. The ground floor is in commercial use with a series of individual shopfronts, and the upper floors are in office and residential use. To my mind the shopfront does not contribute in any positive way to the significance of the building.

8. The Council states that many of the frontages along the listed terrace have received funding towards the re-instatement of high quality shopfronts to designs based on historic precedents, and this was evident at my site visit. However, No 8 stands out somewhat within the terrace by reason of its modern shopfront and dominant acrylic signage, in marked contrast to the more traditional frontages and signage of neighbouring units.
9. Sections 16 and 66 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* state the need to have special regard to the desirability of preserving listed buildings and any features of special architectural or historic interest they possess. Section 72 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Moreover, paragraph 132 of the *National Planning Policy Framework* (the Framework) says that great weight should be given to the conservation of a heritage asset, (including listed buildings and conservation areas) and any harm to their significance should require clear and convincing justification. Policies E18 and E19 of the *City of Derby Local Plan Review* (LPR) have similar aims.
10. Although the statutory duty in relation to listed buildings only applies in relation to the considerations of whether to grant planning permission or listed building consent, it is also a relevant material consideration in relation to the matter of amenity in relation to the advertisement consent appeal.
11. Notwithstanding the revisions which have been made, the Council says the proposed ATM, associated surround and acrylic sign would present an unwelcome modern intrusion into the frontage of this listed building, resulting in unacceptable clutter which would be harmful to its special historic and architectural interest.
12. However, although a finely balanced decision, I am satisfied that the reduction in overall size arising from the omission of the surround panel in particular, together with the omission of the illumination from the fascia panel, mean that the visual intervention of the installation into the historic street scene would be significantly reduced. Against the background of the heavily commercialised frontage, I consider that the modest scale of the ATM and associated signage now proposed would be relatively low-key features that would not harm the special architectural and historic interest of the listed building. For the same reasons I consider the proposal would have a neutral effect, that would preserve the character and appearance of the conservation area.

Other Matter

13. The Council has referred to a recent appeal decision (concerning planning, listed building and advertisement consent) for the installation of an ATM and ATM fascia at No 117 Friar Gate² where the Inspector on that occasion reached

² Appeal Refs: APP/C1055/W/16/3151444; APP/C1055/Y/16/3151451 and APP/C1055/H/16/3151449: News Xtra, 117 Friar Gate, Derby

a different decision, concluding that the proposal would fail to preserve the special architectural interest of the listed building, and would not conserve or enhance the character and appearance of the conservation area. .

14. Based on the information before me the proposed ATM and fascia in both cases appear to be of very similar (if not identical) dimensions, materials and design, and therefore valid comparisons may be drawn. However, there are significant reasons why the cases can be distinguished. No 8 The Strand has a somewhat unsympathetic shopfront of modern materials and design, which I consider does not contribute to the significance of the listed building and conservation area. In contrast, 117 Friar Gate has a traditionally styled and well proportioned timber-framed shopfront which the Inspector considered to be in keeping with the age and traditional character of the building and contributed its significance. Secondly, the Inspector also had to take into account the proximity of the Grade II* listed St Werburgh's Church and the Grade II listed former Gas Board offices opposite the site which were not considerations before me. I have also taken a different view concerning the visual impact of the equipment housing set behind the shop window.
15. However, other decisions do not create a precedent and are not binding on other Inspectors who must make their decision based on the evidence placed before. Therefore, given the different site-specific considerations I find no inconsistency, and in any event, each application and appeal must be considered on its own merits

Conditions

16. I have considered the conditions put forward by the Council in the light of the advice in the Government's *Planning Practice Guidance*. Conditions are needed to secure compliance with the submitted plans in the interests of proper planning. For the avoidance of doubt conditions shall relate to the drawing showing the non-illuminated fascia panel shown on the submitted plan (and not the subsequent revision showing an opaque panel as an alternative). Conditions which require removal of the existing ATM and surround within 6 months of the decision date are necessary for the avoidance of doubt and to safeguard the special architectural and historic interest of the building.

Conclusions

17. **Appeals A and B:** Taking all these matters together, I consider that proposal would preserve the special architectural and historic interest of this listed building. For the same reasons I consider the character and appearance of this part of the Derby City Centre Conservation Area would be preserved, causing no harm to the significance of any of these heritage assets. As such, I find no conflict with LPR Policies E18 and E19 and National planning policy in the Framework and the appeals should succeed.
18. **Appeal C:** For the same reasons I conclude that the display of the advertisement (ATM fascia panel) would not be detrimental to interests of amenity, and should therefore be permitted.

Nigel Harrison

INSPECTOR