



Appeal Decision

Site visit made on 11 July 2017

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 14 July 2017

Appeal Ref: APP/U3935/Z/17/3171294
126 Manchester Road, Swindon SN1 2AF

- 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 Ms Jan Clark (Notemachine UK Ltd) against the decision of Swindon Borough Council.
 - The application Ref S/16/1639/TB, dated 16 September 2016, was refused by notice dated 9 November 2016.
 - The development is the retention of an ATM installed through the existing glazing to the far right hand side of the shop front. Replacing part of the existing glazing with a white laminate composite security panel incorporating the ATM fascia with black bezel surround and white internally illuminated lettering Free Cash Withdrawals out of black background. Blue LED halo illumination to the ATM surround.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The development has already been carried out and, from my site visit, it was evident that the ATM machine has been installed according to the submitted plans. I have determined the appeal on this basis.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of Number 127 Manchester Road, with particular regard to privacy, noise and disturbance.

Reasons

4. The appeal premises are located at the end of a terrace of two-storey properties directly addressing Manchester Road. Categorised as Local Centre within the Swindon Borough Local Plan 2026, adopted March 2015 (the Local Plan) Manchester Road contains a range of ground-floor shops interspersed between residential dwellings.
5. The ATM, subject of this appeal, has been installed within the end, right panel of the ground-floor shop window surround associated with Number 126 Manchester Road (No 126), a continental convenience store. The ATM has been sited close to the boundary with Number 127 Manchester Road (No 127), a residential property, within extremely close proximity of the front door and ground-floor bay window.

6. The window is the only one on the ground-floor front elevation of No 127. It seems reasonable to assume that the ground floor bay window serves a habitable room, which would be in regular use and where occupiers would likely spend sustained periods when at home. Manchester Road is a bustling and active street, and a degree of activity would be expected from the neighbouring convenience store. These factors notwithstanding, a resident of No 127 should still be able to enjoy a reasonably quiet and private living environment in their own home, particularly in the evenings and until the early morning.
7. The appellant's record of activity, take over a week in March, shows a total of just 50 uses recorded between the times of 23:00 - 07:00 across the survey period, which terminates at 17:30 on the last day. While a high proportion of uses take place during the day, when Manchester Road is likely to be at its most vibrant, a significant number of uses also take place between 19:00 and 23:00 when a residential dwelling is likely to be occupied. For example, the record shows that over six days there were 64 uses between 19:00 - 20:00; 47 uses between 20:00 - 21:00; and 50 uses between 21:00 - 22:00.
8. While the convenience store operates between 07:00 and 23:00 seven days a week, its entrance is to the far left of the building, a reasonable distance away from the door and window of No 127. Members of the public would have access to the shop during these hours; but, on most occasions customers are likely to be walking swiftly in and out, with little motive to linger outside the shop or within proximity of No 127. Conversely, the typical time spent at an ATM would be far more protracted and significantly closer to No 127 compared to the shop entrance. Based on the frequency of its use, the facility could also generate queues and groups forming in extremely close proximity to No 127. The ATM would therefore not only generate noise from beeps, but also disturbance from customers, including those who might loiter.
9. Given the angle of the canted-bay window at No 127, there is a direct line of sight from the ATM machine into the far left pane. The proximity of the ATM to this window would create the opportunity for harmful overlooking into this window. As above, it is the propensity for ATM users standing for prolonged periods that would increase the risk of overlooking, which would be materially different to passers-by or customers entering or exiting the convenience store. The low boundary wall between the No 126 and No 127 would do little to mitigate this impact, even if it does delineate a degree of physical separation between the two properties.
10. The appellant argues the benefits of accessible cash machines in sustaining local business, which is an important factor in ensuring the continued vitality and vibrancy of the Local Centre. I accept that free cash machines would provide a valuable community facility. However, on my site visit I saw that another free cash machine is located nearby, within easy walking distance, on the opposite side of Manchester Road. I therefore do not consider that the loss of the facility at the appeal site would in materially impact the continued vibrancy or vitality of the Local Centre, which Policy EC3 of the Local Plan seeks to maintain.
11. Policy DE1 of the Local Plan, however, in requiring a high standard of design for all types of development, seeks to ensure a development protects living conditions, including in respect of privacy, noise and disturbance. The appeal development therefore conflicts with this policy, as well as with the core

planning principles of the National Planning Policy Framework (the Framework), insofar as it requires a good standard of amenity for all existing and future occupants of land and buildings. I therefore consider that the appeal scheme would conflict with the development plan, as well as the policies in the Framework, when taken as a whole.

12. I have considered the use of a condition to restrict the hours of the ATM's operation, as well as the fact that the volume of noise from pressing buttons could potentially be reduced. However, as set out above, it is not just noise from beeps that would impact on the living conditions of neighbouring residents. There is also the unacceptable loss of privacy and other noise and disturbance the users of the machine would generate that would have a harmful effect. While, to date, there may not have been any complaints from the occupiers at No 127 regarding the installation of the ATM, this does not prove the absence of harm nor account for the fact that residents may change.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

H Porter

INSPECTOR