The Planning Inspectorate

Appeal Decisions

Site visit made on 18 July 2017

by Roger Clews BA MSc DipEd DipTP MRTPI

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

Decision date: 26 July 2017

Appeal A: Ref: APP/D4635/C/17/3170749
171 Dudley Road, Wolverhampton WV2 3DR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by New Wave Installations Cardtronics UK Ltd against an enforcement notice issued by Wolverhampton City Council.
- The enforcement notice, numbered 17/00010/ENCOMP, was issued on 1 February 2017.
- The breach of planning control as alleged in the notice is *Without planning permission the installation of an ATM (Automated Teller Machine) with associated signage*.
- The requirements of the notice are:
  1. *Remove the unauthorised ATM and associated signage.*
  2. *Return the property frontage to the physical condition which existed prior to the breach of planning control occurring.*
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Appeal B: Ref: APP/D4635/C/17/3170741
171 Dudley Road, Wolverhampton WV2 3DR

- 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 UK Ltd against the decision of Wolverhampton City Council.
- The application Ref 16/01404/FUL, dated 19 December 2016, was refused by notice dated 2 February 2017.
- The development proposed is the installation of an ATM.

Appeal C: Ref: APP/D4635/Z/17/3170745
171 Dudley Road, Wolverhampton WV2 3DR

- 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 UK Ltd against the decision of Wolverhampton City Council.
- The application Ref 16/01405/ADV, dated 19 December 2016, was refused by notice dated 13 February 2017.
- The advertisements proposed are: Illuminated polycarbonate black and green top and bottom signs with illuminated white lettering "free cash withdrawals" and "cash zone". Halo illumination to polycarbonate surround. Illuminated signage to ATM fascia. Green acrylic sign with white lettering "cash zone" and accepted card logos.

Decisions

Appeal A: Ref: APP/D4635/C/17/3170749

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: Ref: APP/D4635/W/17/3170741

2. The appeal is dismissed.

Appeal C: Ref: APP/D4635/Z/17/3170745

3. The appeal is dismissed.

Procedural matter

4. The applications which are the subject of Appeals B and C were made retrospectively.

Reasons

Appeals A & B (the enforcement and planning appeals)

5. The enforcement appeal is made on ground (a) only: that planning permission ought to be granted for the unauthorised development – the installation of an ATM. As that development is also the subject of the planning appeal, I shall deal with appeals A and B together.

6. The main issues in both these appeals are the effect of the installation of the ATM on road safety and personal security, and on the living conditions of neighbouring residents.

7. Dudley Road, the A459, is a busy single-carriageway main road leading into Wolverhampton city centre. The appeal premises are located at the corner of Byrne Rd in a mainly commercial area. There is a signal-controlled pedestrian crossing a little way to the south.

8. Zig-zag no-waiting lines prevent parking on both sides of Dudley Road between Byrne Rd and Napier Rd. This means that security vans delivering cash to the ATM, and customers wishing to use it, would not be able to park legally outside the premises. Because there are double-yellow lines beyond Byrne Rd to the north, the nearest available unrestricted parking is around the corner on Byrne Rd, or in parking bays on both sides of the road about 70m to the north of the ATM.

9. In order to avoid the walking distance from those unrestricted parking spaces, many customers would in my view be tempted to stop their vehicle on the zig-zag lines outside the premises, or on the double-yellow lines nearby, in order to use the ATM. Parking on the zig-zag lines would create a severe road safety hazard, especially for pedestrians using the nearby crossing, while parking on the double yellow lines would also detract from highway safety as well as impeding the flow of traffic.

10. If the security van delivering cash to the ATM used the parking bays to the north of the premises, the crew member would need to walk a considerable distance with the consequent risk of assault. Although there is mention of

providing a dedicated Cash in Transit bay in Byrne Rd, no firm proposals have been made and there is no evidence that the local highway authority would support this arrangement.

11. Measures to enhance security for users of the ATM, such as CCTV, mirrors and "comfort zone" markings, could be achieved by means of conditions if planning permission were granted. But these would not significantly reduce the risks to security staff delivering cash to the premises.

12. For these reasons I conclude that the installation of the ATM is harmful to both road safety and personal security. It thereby conflicts with policies ENV3 and AM15 of the *Black Country Core Strategy.*

13. I do not share the Council's concerns about the effect of the ATM on neighbours' living conditions. In this busy area the additional noise caused by users of the machine would not add significantly to existing noise levels. There would be no conflict with Core Strategy policy EP5.

14. The presence of the ATM is convenient for users of the local shops, but that benefit is clearly outweighed, in my view, by the resulting harm to road safety. That would in itself justify refusing planning permission. The risks to personal security add further weight to the justification for refusal.

15. For the reasons given above, therefore, and having had regard to all other representations made, I conclude that Appeals A and B should be dismissed.

Appeal C (the advertisement consent appeal)

16. As planning permission is being refused for the installation of the ATM, there is no basis on which to give consent, in isolation, for the advertisements associated with it. Appeal C must therefore also fail.

Roger Clews

Inspector