
Appeal Decision

Site visit made on 25 September 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 18th October 2017

Appeal Ref: APP/C4615/W/17/3179268

7 Bilston Street, Sedgley DY3 1JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Notemachine UK Ltd against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P17/0300, dated 23 February 2017, was refused by notice dated 25 April 2017.
 - The development proposed is the retention of an ATM installed through the existing glazing to the left hand side of the shop front. Replacing part of the existing glazing with 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.

Procedural Matters

2. The ATM has already been installed and I have taken this into account in my determination of the appeal.
3. The Council's decision notice refers to a number of policies from the Unitary Development Plan (2005) (UDP). However, the Council has confirmed that the UDP has been replaced by the Dudley Borough Development Strategy (2017) (DBDS) and that the UDP policies have been revoked. Accordingly, I have not determined the appeal against UDP policy DD4, which is cited in the first reason for refusal on the Council's decision notice.

Main Issues

4. The main issues in this appeal are (i) the effect of the proposal on the living conditions of neighbouring occupiers with regard to noise and disturbance; and (ii) its effects on highway safety.

Reasons

Living conditions

5. The ATM is set within the frontage of the Lifestyle Express convenience store which is located near to Bilston Street's junction with Wolverhampton Road. The store sits within a parade of shops along the northern side of the street and which form part of the Sedgley District Centre. The Council argues that the

- use of the ATM would have an adverse effect on residents living above the store and above the neighbouring premises (no 9a).
6. There is a clear distinction in my view between customers visiting the store for top-up shopping and those wishing to stop only to use the ATM. In the case of the former, it is more likely that customers arriving by car would use one of the nearby car parks and walk to the store. I also consider this would be the case when picking up takeaways from the neighbouring premises.
 7. With ATM use, people would be inclined to stop as near as possible to the facility because of the inconvenience of having to park and then walk simply to withdraw cash. I accept that some of those using the ATM would do so in conjunction with a shopping trip but there can be no certainty that many others would not stop outside the store solely to use the ATM.
 8. The types of noise likely to be experienced by residential occupiers in this location currently are different in my view to those likely to result from the use of an ATM. Occupiers will clearly be used to some level of noise generated by shopping, takeaway pick-ups and general passing traffic but this is less pronounced than people shouting/talking, car doors shutting, the noise of vehicles accelerating away etc., particularly outside of peak traffic hours and in close proximity to where they live.
 9. I accept that the ATM could cease to operate outside of the store opening hours and the illuminated surround could be switched off. I am satisfied that such a restriction could be secured by means of a suitably worded condition. Having said that, the ATM would be available for most of the evening and the likelihood would remain that there would be unacceptable noise and disturbance from the area directly under the flat above the store and very close to that above no 9a.
 10. Accordingly, the appeal scheme would fail to protect the living conditions of neighbouring occupiers thereby running counter to policy D5 of the DBDS that seeks to minimise noise pollution and prevent development that would prejudice amenity despite the provision of mitigation measures.

Highway safety

11. There are double yellow line parking restrictions outside the Lifestyle Express store and a series of bollards outside some of the other premises in the parade of shops. I noted that there are no bollards directly in front of the ATM.
12. At my site visit, I observed a steady flow of traffic along Bilston Street in both directions. It is apparent that vehicles stopping outside the ATM on-street could cause inconvenience to other drivers particularly given the proximity of the Bilston Street/Wolverhampton Road junction. However, it seems unlikely to me that drivers stopping to use the ATM would do so in a way that would cause inconvenience for other drivers or put themselves at risk. Therefore, I consider that the absence of bollards next to the store would encourage them to mount the pavement.
13. Given the proximity of local schools and the route past the parade of shops being an obvious link between Sedgley's main shopping area and the residential areas further along and off Bilston Street, the potential for high pedestrian use is clear. Thus, there is the potential for significant conflict between vehicles and pedestrians resulting from the use of the ATM.

14. I note the appellant's argument in relation to the stopping on-street of delivery vehicles. However, that situation does not give credence to a scheme which in my view would encourage indiscriminate parking and potential harm to pedestrians.
15. To conclude on this second main issue, the appeal scheme runs counter to policy S17 of the DBDS, which amongst other things requires development to make adequate and safe provision for access and egress by vehicle users, cyclists, pedestrians and other road users. It would also conflict with the overall transport objectives of policy TRAN 2 of the Black Country Core Strategy (2011).

Other Matter

16. The buildings lying next to the Lifestyle Express Store (nos 9-27 Bilston Street) are Grade II listed. The proposal therefore has the potential to affect their setting. However, given the range of shop front treatments, the ATM is not out of place with the overall character of the neighbouring frontages and would not result in harm to the character or appearance of these designated heritage assets.

Conclusion

17. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

Hayden Baugh-Jones

Inspector