
Appeal Decision

Site visit made on 13 November 2017

by K Ford BSocSc (Hons) MSc MRTPI

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

Decision date: 8th December 2017

Appeal Ref: APP/C4615/W/17/3181447
305-306 Long Lane, Halesowen, B62 9LB

- 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 against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P17/0350, dated 3 March 2017, was refused by notice dated 13 April 2017.
 - The development proposed is described as 'the retention of an ATM installed through brick to the left hand side of the shop front, with white laminate composite security panel incorporating the ATM fascia with a black bezel surround and white internally illuminated lettering free cash withdrawals out of black background. Blue LED halo illumination to the ATM surround (286.478cd/m)'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was determined with reference to the wrong plans. I have consequently used the plans submitted with the appeal.
3. Although the development is described as retrospective and it is referred to as being present in the officer's delegated report and the appellant's statement I did not see it on my visit. The location where it is shown on the plan was boarded up. In the circumstances I have therefore dealt with the appeal as a proposed development.

Main Issues

4. The main issues are:
 - The effect on the living conditions of neighbouring properties with particular regard to noise and disturbance.
 - The effect on highway and pedestrian safety.

Reasons

Living Conditions

5. The ATM would be inserted to the left hand side of the appeal shop window of the unit 305-306 Long Lane, currently occupied by Lush Lighting City. Located between Malt Mill Lane junction and the traffic island that links Nimmings Road

to Long Lane, the shop sits within a parade of shops that comprise the Shell Corner Local Centre. The Council notes and I saw that the upper floor of the unit that would house the ATM is in residential use and that there are also residents living in adjacent properties.

6. The property is located on a busy road within the local centre and consequently there is a certain level of background noise above that experienced in a wholly residential area. The noise and disturbance that could be expected from the ATM would however be different from that currently experienced from passing traffic and pedestrians using the shopping facilities for the reasons given below.
7. Those using the centre for shopping trips would be likely to park their car in surrounding streets. Whilst there would be an opportunity for linked trips, those stopping to just use the ATM would be likely to want to locate as close as possible to the machine to avoid the inconvenience of parking and walking to only withdraw cash. Noise levels would also be likely to be intensified with the use of the ATM as a result of vehicles stopping/ starting, pulling away and car doors opening and closing. There would also be a greater likelihood of people standing around the machine with the associated risk that they would cause disturbance by talking, laughing or shouting.
8. Although analysis by Notemachine indicates that most transactions do not take place very late at night or early in the morning the appellant accepts that when the ATM is operational there would be potential for it to be used at those times. The appellant has suggested that the hours of operation could be restricted to 7am-10pm. Whilst I agree that this could be achieved through a suitably worded condition, it would still result in a level of disruption associated with its availability for most of the evening.
9. The proposal would harm the living conditions of neighbouring properties and consequently it would conflict with Policy D5 of the Dudley Borough Development Strategy (Strategy). This policy seeks to avoid development where there is a juxtaposition of uses with noise generating proposals or noise sensitive proposals and where noise levels would demonstrably prejudice amenity.

Highway Safety

10. Zig zag road markings associated with an adjacent zebra crossing stand in front of the location of the proposed ATM and double yellow lines are painted on the road in front of the main shop frontage. Whilst there are bollards opposite the proposal site there are none in front of it.
11. I accept that there are parking opportunities in adjacent side roads but this is not apparent from outside the shop. I therefore consider that consequently there would be a real possibility that patrons of the ATM would park on the zig zag lines or double yellow lines in front of the site or more likely, given the proximity to the junction and crossing, that they would mount the pavement in the absence of bollards to prevent this. I witnessed on my site visit a consistent flow of traffic and pedestrian activity in the vicinity of the proposal and in those circumstances there would be a conflict of use between other roads users and pedestrians and those parking to use the ATM. Whilst the ATM would not automatically cause indiscriminate parking, the risk would be increased given the limited alternative options available. I also accept that not all users of the ATM would access the facility by car but there is nothing to stop its use by car

drivers. There would consequently be a risk to highway and pedestrian safety as a result.

12. In this respect I note the Shell Corner Local Centre Re-generation Strategy which notes that 'One of the major contributing factors to the decline of this centre as a shopping centre is its lack of public parking, which makes it difficult for potential customers to stop and use the shops' which indicates that parking is a problem in the area which could be exacerbated by the use of the ATM.
13. Irrespective of the number of traffic incidents in the area, I conclude that the proposal would create a harmful risk to highway and pedestrian safety and would conflict with Policy S17 of the Strategy which, among other things, requires that new development makes adequate and safe provision for access and egress by vehicle users, cyclists, pedestrians and other road users.

Other Matters

14. I appreciate that Local Centres can be an appropriate location for ATMs and provide an opportunity to contribute positively to the vitality and viability of the centre. However in the case of this proposal such gains would be outweighed by the harm to living conditions and highway safety.
15. I note that approval has been granted for the illuminated sign but this application would have been dealt with pursuant to different considerations than those with which I am concerned in this appeal.

Conclusion

16. For the reasons identified, I conclude that the appeal is dismissed.

K Ford

INSPECTOR