



Appeal Decision

Site visit made on 29 October 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2019

Appeal Ref: APP/M5450/C/19/3222978 340a Uxbridge Road, Pinner HA5 4HR

- 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 Notemachine UK Ltd against an enforcement notice issued by the Council of the London Borough of Harrow.
- The enforcement notice, numbered ENF/0225/18/P, was issued on 4 February 2019.
- The breach of planning control as alleged in the notice is the unauthorised installation of an ATM to the shop front of a commercial unit.

The requirements of the notice are;

1. Remove all materials in association with the installation of the ATM, including but not limited to the ATM and reinstate the pre-existing shop front.
 2. Remove from the land all materials and debris arising from compliance with the aforementioned requirements of the notice.
- The period for compliance with the requirements is one month after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the installation of an automated teller machine (ATM) to the shop front of a commercial unit on land at 340a Uxbridge Road, Pinner HA5 4HR referred to in the notice, subject to the following condition:
 1. The automated teller machine (ATM) hereby permitted shall be removed and all materials resulting from the removal, shall be taken from the site, within one month of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
 - (i) Within two months of the date of this decision, a scheme for providing a painted privacy zone; details of the levels of lighting to ensure that facial images of the ATM users can be taken; details of all cameras and close circuit television equipment (CCTV), their coverage, including a camera to take facial images of the ATM users; and details of a pin shield; shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

- (ii) if within four months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to and accepted as valid by the Secretary of State.
- (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- (iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2. The approved scheme and any equipment installed as part of the approved scheme shall thereafter be maintained in accordance with that approval and retained for so long as the ATM remains on the site.

Procedural matter

- 2. The appellant has included a copy of an enforcement notice relating to 462 Alexandra Avenue, Rayners Lane HA2 9TL. Whilst the allegation in the notice refers to the installation of an ATM, there is no further reference to this site or any evidence to indicate its relevance to this appeal. I note that the copy of the correct notice was not provided. I therefore conclude that it has been attached in error.

The appeal on ground (a) the deemed application.

Background and main issue

- 3. Planning permission was refused retrospectively in 2016 under reference P/0704/16, for an automated teller machine (ATM), as the Council considered that insufficient information had been provided to assess the community safety and crime prevention impacts of the development. Following that refusal, the ATM was not removed. The Council then served the enforcement notice subject to this appeal.
- 4. I consider that the main issue is the effect of the development on community safety and crime prevention.

Reasons

- 5. In summary policies CS1, DM1 of the development plan and Policy 7.3 of The London Plan, taken together, seek to ensure that development should reduce the opportunities for criminal behaviour and contribute to a sense of security, maintaining safe and secure neighbourhoods.
- 6. The Council set out their concerns in their delegated planning report for the planning application. As a result of the consultation for that application, the Designing Out Crime Officer (DOCO) made a number of recommendations. These included providing a painted privacy zone and the installation of a pin shield, which could be achieved through conditions. However, further concerns were highlighted regarding the coverage of the close circuit television cameras

(CCTV) and whether there was sufficient lighting to allow facial images to be taken, and the extent of coverage provided by the front video.

7. This part of Uxbridge Road is a very busy main road. The appeal site is located within a large parade of mixed residential, shops and commercial premises that line each side of the road. There is a wide range of shops and restaurants, providing services for day and evening customers. Whilst there is little on street parking outside the site, there is a service road opposite, that provides convenient parking for customers and a bus stop. The ATM is sited close to the main door of a small convenience store with residential accommodation above. I saw from my site visit that there is a coffee shop next door with an external seating area.
8. The above factors when combined, mean that there would be a high degree of casual surveillance and self-policing. I recognise that the adjacent seating area could give opportunities for loitering. Nonetheless, given the levels of pedestrian footfall and passing vehicles, I do not consider that this ATM would be any more at risk of opportunistic thefts, than any other similar facility. Moreover, I have no evidence before me to suggest that this, or any other ATM in the area, have been subject to problems in the past.
9. I have been provided with evidence that demonstrates that the ATM provides a well-used local service. Consequently, it is likely to both benefit residents and local businesses in the parade. The appellant has also provided me with some crime statistics, understood to have been taken from Police UK. These show a relatively low level of reported crime, during the three months from October to December 2018. However, this is a very small snapshot in time, and I have no information to explain why this particular timescale was chosen. Moreover, there is no explanation about the type of crimes and whether these were related to the use of the ATM. I therefore give them only limited weight.
10. The appellant contends that the site benefits from a six camera CCTV recording system, where one camera covers the ATM externally. Both the premises and the ATM are fitted with alarms and the site is lit from the existing street lighting and the ATM's own internal lights. I recognise that these measures focus on attacks on the ATM itself, as opposed to people who are, or have, used the facility. I have not been provided with any evidence to indicate that the measures that are already in place are inadequate or have led to an increase in criminality or concerns for safety. Nonetheless, I consider that full details of existing, together with the recommended additional security and crime prevention measures, could be secured through a suitably worded condition.
11. For the above reasons, I find that, subject to the submission of details of existing and additional security measures, the ATM would not have a detrimental effect on community safety and crime prevention. The development would not therefore conflict with policies CS1.E of the Harrow Core Strategy (2012) and Policy DM1 of the Harrow Council Development Management Policies (2013).

Conditions

12. I consider that a condition to require a scheme to include: details of a painted privacy zone; details of lighting to ensure that facial images of the ATM users can be taken; details of the camera to be used to take facial images of the ATM

users; and details of a pin shield; are required in the interests of crime prevention and providing a secure environment for residents, business and those using the ATM facility. I have imposed a further condition to ensure that the approved measures remain in place for the duration of the use and siting of the ATM.

13. The purpose of condition 1 is to require the appellant to comply with a strict timetable for dealing with the crime prevention and community safety measures, which needs to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority ("LPA") or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.
14. Failure to provide or implement the required details within the times specified, would result in a breach of this condition. The Council would be able to take further enforcement action, including the re-instatement of the shop front if required.

Conclusion

15. For the reasons given above, I conclude that the appeal should succeed on ground (a) and planning permission will be granted subject to the attached conditions.

Hilary Orr

INSPECTOR