The Planning Inspectorate

Appeal Decision

Site visit made on 6 January 2020

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2020

Appeal Ref: APP/M3455/C/19/3234202
50 Tontine Street, Hanley, Stoke-on-Trent ST1 1LY

- 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 Ms Jan Clark of Notemachine UK Ltd against an enforcement notice issued by Stoke-on-Trent Council.
- The enforcement notice was issued on 26 July 2019.
- The breach of planning control as alleged in the notice is without planning permission, the installation of an ATM and surrounding composite boarding within the glazed shop frontage on the front elevation of the premises situate *[sic]* on the land.
- The requirements of the notice are remove from the land the ATM and surrounding composite boarding and restore the glass frontage to the front elevation of the property situated at 50 Tontine Street, Hanley, Stoke-on-Trent, ST1 1LY.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)[a] of the Town and Country Planning Act 1990 as amended.

Decision

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.

Procedural Matters

2. The appellant states that the appeal seeks permission for the retention of the ATM along with the removal of the composite panel and reinstatement of the glazing. However, I have no power to grant planning permission for those proposed alterations. Were I simply to grant planning permission for the works covered by the deemed application for planning permission, this would be for all the alleged works, as originally carried out, not as proposed by the appellant. Nevertheless, in the event I were to allow the ground (a) appeal, I consider it would be reasonable to require the removal of the composite panel and reinstatement of the glazing via condition and have therefore considered the appeal on this basis.

3. The enforcement notice and appeal relates to an Automated Teller Machine (ATM). The Council and the appellant refer to it as an ATM, as does the enforcement notice. On the basis of the evidence before me, the parties are in no doubt as to what the enforcement notice is referring to when the abbreviation is used. Furthermore, the term is commonly used in everyday language. I therefore consider there is no need to amend the enforcement notice to set the term out in full.

Ground (a)

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area bearing in mind it would be within the Hanley Town Centre Conservation Area (HTCCA).

Reasons

5. The appeal property is located in a prominent position within the HTCCA and is opposite the Grade II listed former Post Office building. The area generally comprises a mixture of retail and commercial uses at ground level. The appeal building comprises a brick built, terrace property with a retail unit at the ground floor. The scale of the building is modest and of simple design in comparison to the post office building opposite, which is a substantial building constructed of stone with imposing architectural detailing.

6. In determining this appeal, I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the listed building affected, and its setting. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the HTCCA. Furthermore, paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

7. The City Centre Conservation Area Appraisal (CCCAA)(March 2010) identifies the former Post Office as one of a number of distinctive historical focal points within the conservation area. Tontine Street is also recognised as one of the main shopping frontages within the Conservation Area. The CCCAA advises that whilst the area retains much of the historic character it has suffered from unsympathetic alteration, especially to shopfronts and signage. Indeed, the appellant points out that other shop fronts in the street are obscured by advertising. The CCCAA advises more effective use of planning controls as well as the retention and enhancement of traditional shopfronts.

8. From my assessment of the evidence before me, the significance of the HTCCA is derived from the historic pattern of development and the attractive and traditional architectural detailing. Although the appeal building and adjoining buildings are not listed, the modest terraced buildings with their typically small shop frontages help preserve the character and appearance of the HTCCA and the setting of the setting of the Grade II listed former Post Office building by retaining the juxtaposition of scale typical of the area.

9. The ATM and its surround occupy a significant proportion of the shop window. Even if the composite background were to be removed and glazing reinstated, the ATM would continue to dominate the shop frontage due to its size and bulk. The illumination serves to emphasise its prominence in the street scene and would mean that its prominence persists beyond daylight hours. As a result, the ATM is an uncharacteristic, dominant feature in the street scene which unacceptably diminishes the historical character of this part of the HTCCA. It

also, as a consequence, harms the setting of the adjacent listed building, the Grade II listed post office building.

10. The appellant asserts that the appeal scheme complies with the requirements of Strategic Aim 14 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS)(2006-2026)[1], which are to protect and enhance the historic heritage. However, for the reasons given above, I conclude that the proposal would not conserve or enhance the character or appearance of the HTCCA and would harm the setting of the former Post Office, a Grade II listed building.

11. It would therefore conflict with Policy CSP1 of the CSS which seeks to ensure that new development is well designed to respect the character, identity and context and in particular its historic environment and Policy CSP2 which seeks to preserve and enhance the character and appearance of the historic heritage of the City and the Borough. It would also fail to accord with the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010) which seeks to preserve and enhance the character and appearance of conservation areas.

12. Paragraph 184 of the National Planning Policy Framework (the 'Framework') (2019) states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. For the reasons given, the proposal would harm the character and appearance of the area, the significance of the HTCCA and the setting of nearby listed building. I consider that the harm arising to the significance of the designated heritage asset would be less than substantial in the context of paragraph 196 of the Framework. The Framework is clear that any harm to the significance of a designated heritage asset should require clear and convincing justification.

13. The appellant has drawn my attention to paragraph 85 of the Framework which states that decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. I agree that ATMs are necessary in town centres and are likely to be used as part of linked trips with retail units in the area.

14. From the evidence before me, the ATM appears to be well used, however, this in itself is not an indicator of need. The appellant asserts that there is a need for the facility, particularly in light of the closure of high street banks and the restricted availability of ATMs which are located within retail units. However, I have no substantive evidence that the existing banks in Hanley are likely to be subject to closure and therefore afford this matter modest weight.

15. I acknowledge that the appeal site is located within an area which is served by public transport meaning that users of the ATM are likely to be able to access it by means other than the private car and on foot. This is a matter to which I afford moderate weight.

16. The appellant asserts that there were no objections from archaeology, City Centre Chamber of Trade or the City Centre. However, the lack of objection in this respect is a neutral factor in my consideration of the appeal.

[1] Adopted October 2009

17. I do not consider that the public benefits of the appeal scheme outweigh the harm I have identified to the HTCCA and setting of the listed building, the conservation of which I attribute great weight to.

18. The Council referenced appeal decisions APP/M3455/W/17/3179244 and APP/M3455/A/12/2168448 in its Statement of Case. However, I have no substantive details of these decisions and cannot be sure that they are comparable to the appeal scheme before me. Furthermore, I have considered the appeal scheme on its own merits.

Conclusion

19. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

M Savage

INSPECTOR