



Appeal Decisions

Site Visit made on 16 March 2021 by Mr Gareth Sibley MPLAN MRTPI

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2021

Appeal A, APP/C1055/W/20/3264204

15A Friar Gate, Derby DE1 1BU

- 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 Cardtronics UK Ltd, trading as CASHZONE against the decision of Derby City Council.
 - The application Ref: 20/01045/FUL, dated 27 August 2020, was refused by notice dated 19 October 2020.
 - The development is for an Automated Teller Machine and Non-Illuminated logo panel only.
-

Appeal B, APP/C1055/H/20/3264205

15A Friar Gate, Derby DE1 1BU

- 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 Cardtronics UK Ltd, trading as CASHZONE against the decision of Derby City Council.
 - The application Ref: 20/0146/ADV, dated 27 August 2020, was refused by notice dated 19 October 2020.
 - The advertisement is for an Automated Teller Machine and Non-Illuminated logo panel only
-

Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. Notwithstanding the description of development set out above in respect of Appeal B, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises of associated signage. The Council dealt with the proposal on that basis and so shall I. The formal decision reflects this approach.
4. An automated teller machine (ATM) has already been installed in this location although the proposal would reduce the size of the associated advertisement. The application and appeal were therefore made retrospectively.

Main Issue

5. The Council concluded that the advertisement proposed in Appeal B would not cause harm to public safety and I see no reason to disagree. Therefore, the main issue in respect of Appeal B is the effect of the proposal upon the amenity of the area and in respect of both Appeal A and B is the extent to which the proposal would preserve or enhance the character or appearance of the Friar Gate Conservation Area (CA) and whether the proposal would preserve the setting of the nearby Grade II listed 16-17, 18, 19-20, 21-22 Friar Gate and 3 George Street and the Grade II* listed Friary Hotel.

Reasons for the Recommendation

6. The CA covers a large area which runs along Friar Gate. The street scene is characterised by traditional shopfronts with stallrisers, pilasters, console brackets and large areas of glazing with fascia's and corncicing above them. The shopfronts create an attractive traditional commercial street scene which complements the historic buildings above the ground floor level, many of which are listed. On the opposite side of the road is the Friary Hotel which is a large three storey Georgian style building.
7. The advertisements associated with the shops along this section of Friar Gate are typically limited to the fascia's above the shopfronts or from hanging or box signs. The historic character and appearance of the CA in this location has been preserved through the sympathetic redevelopment and reuse of the listed and non-listed buildings. The listed buildings are located close to each other and as a consequence they have a shared setting, which encompasses this section of the Friar Gate CA.
8. No.15A is located near to the eastern end of the CA and is situated on the junction between Friar Gate and George Street and is a two-storey building with a commercial enterprise on the ground floor. The ground floor of the building is similar to the other shops along Friar Gate insofar as it utilises the traditional shopfront architectural details referred to above. Whilst the building itself is not listed it is closely related to a number listed buildings along Friar Gate.
9. The proposed ATM would be located in around the same location as the existing ATM but the larger advertisement around it would be removed with just the smaller non-illuminated rectangular advertisement above it retained.
10. A positive characteristic of the area is the areas of relatively unobstructed glazing in the shopfronts. The ATM and the secure storage container behind it would occupy a large area of the shop front, thus introducing a large solid grey container within the run of open attractive shop frontages. The window would be a single pane of unencumbered glass without the ATM which would be similar to the other traditional shop fronts along the street. Although I accept that ATMs are a common and recognisable feature in retail areas, the ATM and the associated advertisement would have a contemporary appearance which would appear incongruous within the street scene and would detract from the consistent appearance of the traditional shop frontages. This detracts from the group value of the shopfronts and the positive impact they have in retaining the historic significance of the CA in this location as well as the setting of the nearby listed buildings.

11. Paragraph 193 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 194 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have a clear and convincing justification. Given the scale of the proposed development, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
12. The ATM would provide a way for members of the public to gain access to cash as well as use the other services provided by the ATM. Nevertheless, there is another ATM a short distance from the site on the same road, as well as other ATM's across the city centre. As such, there are alternative ATM's available near to the site that already provide the same services that the ATM would. As such, whilst I note the content of the Access for Cash Review (2019), I do not consider there to be a shortage of ATM's locally that would require one to be installed in this specific location.
13. Given the above I do not consider the public benefits to be of significant weight, and as such, I conclude that the proposal would fail to preserve the setting of the listed buildings. Furthermore, the proposal would also fail to preserve the character or appearance of the CA. This would fail to satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 192 of the Framework. Furthermore, the proposal would be contrary to Policy E18 and E19 of the City of Derby Local Plan Review (adopted 2006) (LPR) as well as Policy CP20 of the Derby City local Plan Part 1 Core Strategy (adopted 2017) which requires development to preserve or enhance the special character of the CA and to ensure development does not have a detrimental effect upon the setting of listed buildings.
14. The advertisement would also have an adverse impact on amenity and as a material consideration would conflict with Policy E28 of the LPR which states that advertisements should not detract from the appearance, character of setting of any building of which it would be displayed, as well as the aforementioned heritage policies. The Draft Shopfront and Advertisement Guide (2008) notes that windows should never be blocked by advertising and as a consequence, the proposal would be contrary to this.

Other Matters

15. The appellant has referred to another ATM was approved by the Council. Whilst I have not been made aware of the circumstances surrounding that application, that ATM was not located within the Friar Gate CA which is a fundamental difference between the two proposals. Furthermore, each case must be assessed on their own merits and the Council granting planning permission elsewhere would not justify these proposals.

Conclusion and Recommendation

16. The proposals would fail to preserve the setting of a number of listed buildings as well as fail to preserve the character or appearance of the CA. Consequently, the proposals would cause harm to the amenity of the area and as a result would be contrary to the development plan taken as a whole, as

well as the Regulations. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that both appeals should be dismissed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, the appeal should be dismissed.

Martin Seaton

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/C1055/W/20/3264204	Cardtronics UK Ltd, trading as CASHZONE
Appeal B	APP/C1055/H/20/3264205	Cardtronics UK Ltd, trading as CASHZONE