

Appeal Decision

Site visit made on 3 April 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 20 April 2017

Appeal Ref: APP/A4520/W/16/3166031

3 Station Terrace, East Boldon NE36 0LJ

- 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 Sainsbury's Supermarkets Limited against the decision of South Tyneside Metropolitan Borough Council.
 - The application Ref ST/0528/16/FUL, dated 2 June 2016, was refused by notice dated 7 October 2016.
 - The development proposed is the installation of an ATM cash machine to front elevation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have adopted the development description set out in the Council's decision notice and subsequently in the appellant's submissions, as it more accurately describes the proposal. I am satisfied that the Council considered the application on the basis of this description and so too shall I.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupiers of the adjacent first floor flat at 4a Station Terrace, with particular reference to noise and disturbance.

Reasons

4. The proposed automated teller machine (ATM) cash machine would be located within the shopfront of an existing '*Sainsbury's Local*' retail unit at 3 Station Terrace. It would be a 'through glass' type ATM set within an existing glazed window at the appeal premises. The appeal site is located in a mid-terrace position in a short parade of ground floor commercial units, with residential flats above. There is a front door that provides access to a first floor flat at 4a Station Terrace immediately adjacent to the site of the proposed ATM, beyond which lies an adjoining convenience store.
 5. Policy DM1 of the South Tyneside Local Development Framework: Development Management Policies (DMP) states that in determining all planning applications it will be ensured that, amongst other matters, the development is acceptable in relation to any impact on residential amenity (DMP policy DM1(B)). Paragraph 2.13 of the DMP goes on to state that impact on residential amenity will be
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- assessed in relation to noise, vibration and disturbance from any proposed activity. It states that this will include traffic related noise and the comings and goings of visitors to premises particularly when late evening activity is involved.
6. It is intended that the ATM would provide a 24-hour service. Although sited within a row of mixed commercial premises the existing uses, whilst open late into the evening, do not provide 24-hour opening. However, the proposed ATM would be located immediately adjacent to the entrance door to the upper floor flat at No. 4a. Whilst I have no reason to believe that the proposed ATM would attract significant levels of customers or generate significant levels of additional comings and goings, those members of the public using the facility would be doing so close to the entrance to that upper floor flat.
 7. Although there are a range of uses within the commercial parade, and the entrance to No. 4a is flanked by convenience stores on either side, the entrances to both of those units are located towards the middle or far sides of their respective shopfronts, away from the entrance to the upper floor flat. By contrast, the proposed ATM would be situated immediately adjacent to the entrance to No. 4a.
 8. I have no evidence to suggest that instances of anti-social behaviour are, or have been, common-place in the area surrounding this particular parade of shops, nor do I have any reason to suspect that users of the proposed facility would be likely to behave in such a manner. However by virtue of the mere proximity of the proposed ATM to the entrance to No. 4a, it seems to me that potential users of the ATM would not have to exhibit noisy or unneighbourly behaviour in order to be intimidating to the occupiers of the adjacent flat.
 9. The very presence of people using, or waiting to use, the proposed ATM in such proximity to the front door of No. 4a, would, to my mind, create an intimidating environment in which to enter one's flat, regardless of their intentions. I accept that the retail units on either side of the entrance doorway will attract customers throughout the day. However, the ATM would introduce an additional focal point for activity within the commercial parade at a point directly adjacent to the entrance to the upper flat where no such focal point exists at present.
 10. I note that there is a CCTV camera within the existing shopfront at No. 3 and that there would be a degree of natural surveillance from the front of the '*Sainsbury's Local*' store to discourage potential instances of anti-social behaviour. I have also considered the comments of Northumbria Police's Crime Prevention Design Adviser and the content of the ATM Security Working Group report¹. However, in both instances their main focus appears to relate to the safety of the ATM installation and the users of the ATM, and those who maintain them, rather than the effect of the siting of the ATM upon adjacent residential properties.
 11. The appeal site is not located in a busy town centre location and so it is unlikely that the proposed ATM would generate such levels of activity that would lead to a direct and adverse impact upon the upper floor flat in terms of direct noise and disturbance. However, the presence of customers at the ATM would not, to my mind, need to be continuous or event particularly frequent to

¹ ATM Security Working Group: Best Practice for Physical ATM Security (September 2009)

create an intimidating environment in the particular circumstances in this instance.

12. The location of the proposed ATM would provide a reason for people to be immediately outside the door to No. 4a that does not currently exist. The comings and goings associated with that, whilst I have no reason to suspect that they would be particularly intense, would nonetheless have the potential to create an intimidating environment around the entrance to the property, both at night and during the day.
13. Thus, I conclude that the proposal would have an unacceptable impact on the living conditions, and therefore residential amenity, of occupiers of 4a Station Terrace by virtue of a combination of the comings and goings associated with the proposed ATM and its proximity to the entrance door to that property. The proposal would therefore conflict with DMP policy DM1(B) and would also fail to secure a good standard of amenity for existing occupants of the adjacent upper floor flat at No. 4a, something that the National Planning Policy Framework (the Framework) sets out as one of its core planning principles.
14. I accept that the ATM would provide a service for local residents and shoppers, as well as catering for passing custom. I have not been provided with any evidence to suggest that the level of use of the proposed ATM would be such that it would generate a level of noise directly leading to disturbance to the occupants of No. 4a, and I note that the Council did not refuse the proposal on highways grounds. However, these factors do not persuade me to reach a different conclusion that a combination of the potential presence of customers using the proposed ATM and its proximity to the entrance to No. 4a would be harmful to the residential amenity of occupants of that property.

Conclusion

15. For the reasons set out above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR