

Committee: Development Committee	Date: 27 th April 2016	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Chris Stacey-Kinchin	Ref No's: PA/15/03434 and PA/15/03435
	Ward: Lansbury

1. APPLICATION DETAILS

Location:	42-44 Aberfeldy Street, E14 0NU
Existing Use:	Retail (A1 Use)
Proposal:	<p>PA/15/03434 Retrospective planning application for the retention of an ATM (Cash Machine).</p> <p>PA/15/03435 Retrospective advertisement consent for integral illumination and screen to the ATM fascia and internally illuminated 'Free Cash Withdrawals' sign set above the cash (ATM) machine.</p>
Drawing and documents:	<p>Site Location Plan NM-05-2015-29-1, Rev A (Existing Elevations) NM-05-2015-29-2, Rev A (Proposed Elevations) Design & Access Statement including security note addendum</p>
Applicant:	Notemachine UK Ltd
Ownership:	Poplar HARCA
Historic Building:	N/A
Conservation Area:	N/A

2. BACKGROUND

- 2.1 This application for retrospective planning permission and advertisement consent for the retention of an ATM (Cash Machine) with integral illumination and a screen to the ATM fascia along with an internally illuminated 'Free Cash Withdrawals' sign set above the ATM machine was reported to Development Committee on 6th April 2016.
- 2.2 The Committee, on a vote of 2 in favour and 3 against, resolved not to accept the officer recommendation to grant planning permission and advertisement consent and

therefore resolved that permission should be refused and indicated the following reasons for refusal:

- Impact on residential amenity in terms of noise and disturbance from use of the cash machine and the illuminated sign.
- That the proposal would increase anti-social behaviour in the area.
- The safety and security of the cash machine users.

2.3 This report considers the reasons for refusal in the context of the officer's original assessment of the application and whether these are likely to be sustainable in the event of an appeal.

3. COMMITTEE REASONS FOR REFUSAL

Residential Amenity Implications

3.1 The application intends to retain a 24 hour cash machine with an internally illuminated white 'Free Cash Withdrawals' sign and blue LED 'halo' illuminated edge within an existing local shopping parade which features commercial uses at ground floor level and residential uses on the upper levels. Officers consider that the retention of the ATM will not give rise to considerable amenity implications for surrounding residents. As noted by the Metropolitan Police Crime Prevention Design Advisor ATM's do not often draw a group together as they are usually used in a 'visit and go' fashion, and as such high levels of noise disturbance would not be expected. Furthermore, it should be noted that the illumination of the ATM in question is relatively subtle and not excessive and sits within the context of a street which is lit by streetlights which are considerably brighter than the luminance of the ATM, meaning that the impact of the luminance of the ATM on neighbouring residents is likely to be negligible.

Anti-Social Behaviour

3.2 Members raised concerns that the retention of the ATM could give rise to anti-social behaviour within the vicinity of the ATM. The Metropolitan Police Crime Prevention Design Advisor has stated that the Police would not normally have any issues with an ATM from an anti-social behaviour point of view for the reasons outlined within paragraph 3.1 of this report. Furthermore the most recent crime statistics for this locality (January 2016) do not suggest that this particular locality suffers from a crime rate higher than that of surrounding areas, and therefore demonstrates that the existence of the ATM has not resulted in a spike in antisocial behaviour in and around Aberfeldy Street.

Safety and Security of Users

3.3 Members raised concerns over the safety and security of those using the ATM. Whilst officers appreciate the concerns of the committee members, it should be noted that the applicant has taken all reasonable steps to ensure the safety and security of the users. This includes: anchoring the ATM to a secure concrete plinth in order to reduce the likelihood of the ATM being removed; placing the ATM within a secure safe with increased security measures in order to deter criminals; carefully assessing the site for its suitability (in security terms) to house an ATM; installing Pin Shields in order to prevent Pin Fraud; installing a defensible space (ground markings) in front of the ATM, and; developing covert CCTV within the ATM installation designed to capture and identify any potential offenders interfering with the installation.

3.4 In light of the above officers believe that defending this issue as a standalone reason at appeal is unlikely to be successful and recommend that this reason is withdrawn from the decision and elements of it instead be included within the reason which covers anti-social behaviour.

4. ADDITIONAL REPRESENTATIONS AND PROSPECTIVE CHANGES TO SCHEME

4.1 Since the publication of the Committee Report and Update report the Council has received no additional representation from local residents or the wider community.

5. IMPLICATIONS OF REFUSING PLANNING PERMISSION

5.1 The officer recommendation has been to grant planning permission and advertisement consent but it is the Committee's prerogative to disagree with that recommendation if there are clear planning reasons for doing so.

5.2 In coming to an alternative view the Committee has to take into account the provisions of the development plan, any other relevant policies and relevant material considerations.

- If planning permission and advertisement consent is refused, there are a number of routes that the applicant could pursue:
- Appeal to the Secretary of State. An appeal would be determined by an independent Inspector appointed by the Secretary of State. Whilst officers have recommended approval, any appeal would be vigorously defended on behalf of the Council.
- To pursue an alternative scheme. The applicant could commence pre-application discussions on an amended scheme that seeks to address the reasons for refusal and submit a fresh planning and advertisement consent application.

5.3 In this case the applicant has not indicated what course of action they might pursue if any.

Financial implications - award of costs

5.4 In dealing with appeals, all parties, including the Local Planning Authority, are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.

5.5 Unreasonable behaviour in the context of an application for an award of costs may be either:

- procedural – relating to the process; or
- substantive – relating to the issues arising from the merits of the appeal.

5.6 An example of the former might be failing to keep to the requirements of an appeal timetable to submit statements of case or other evidence. An example of the latter might be taking a decision which could be described as unreasonable in the context of all of the evidence available to the decision maker. It is this latter aspect that the Committee members in their role as decision makers need to be mindful of.

6. RECOMMENDATION

6.1 The proposal has not been amended and has been considered in the context of the relevant Development Plan policies and the officer recommendation to **GRANT** planning permission and advertisement consent remains unchanged.

6.2 However if members are minded to **REFUSE** planning permission the following reasons are recommended:

Residential Amenity Implications

1. The retention of the ATM, by reasons of its luminance and noise generated by its users, would unacceptably impact upon the amenity of surrounding residents and building occupiers. The proposal is therefore contrary to Policy SP10 of the Adopted Core Strategy (2010) and Policy DM25 in the Managing Development Document (2013), which seek to ensure that development safeguards the amenity of surrounding existing and future residents and building occupiers.

Anti-Social Behaviour and Safety and Security of Users

2. The retention of the ATM, by reasons of its siting and lack of coverage by CCTV, would result in a development which could compromise its user's safety and security and lead to an increase in anti-social behaviour. The proposal is therefore contrary to Policy SP10 of the Adopted Core Strategy (2010) and Policy DM23 in the Managing Development Document (2013), which seek to ensure that development improves and safeguards safety and security.

6.3 With regards to the application for advertisement consent the Council is restricted to considering the effects on amenity and public safety. The 2007 Control of Advertisement regulations 3(i) states an LPA should take development plan policies in so far as they are material. As such, if members are minded to **REFUSE** advertisement consent the following reason is recommended:

1. The retention of the advertisement associated with the ATM, by reason of its luminance during the hours of darkness, would unacceptably impact upon the amenities of the surrounding residents contrary to policy DM23 of the Managing Development Document 2013.