



**TO:** Planning Committee North

**BY:** Head of Development

**DATE:** 07 January 2020

**DEVELOPMENT:** Installation of an ATM to front elevation with night time closure plates

**SITE:** Tesco Express 49 Brighton Road Horsham West Sussex RH13 6EZ

**WARD:** Forest

**APPLICATION:** DC/19/1112

**APPLICANT:** **Name:** Tesco Stores Limited **Address:** Falcon Way, Shire Park, Welwyn Garden City, AL7 1TW

**REASON FOR INCLUSION ON THE AGENDA:** Over 8 letters of representation have been received which are contrary to the recommendation and at the request of the Local Members

**RECOMMENDATION:** To approve planning permission subject to appropriate conditions

**1. THE PURPOSE OF THIS REPORT**

1.1 To consider the planning application.

**DESCRIPTION OF THE APPLICATION**

1.2 The application is seeking planning permission for the installation of an Automated Teller Machine (ATM) at the Tesco Express Store on Brighton Road in Horsham. The ATM is to be sited on the north facing elevation of an existing single storey element of the building, situated on the west elevation fronting Brighton Road. The ATM will be adjacent to a trolley park/store display area that is protected by existing bollards.

1.3 The ATM will be available between the store opening hours of 06:00am to 23:00pm and during the closure will be fitted with a bezel cover and switched off, including any associated lighting. The area will also be covered by Closed Circuit TV (CCTV).

**DESCRIPTION OF THE SITE**

1.4 The site is located on the corner of St Leonards Road and Brighton Road and comprises a single and two storey building set back from the highway, with associated car parking. The site, formerly a public house, is used as a Tesco Express store.

- 1.5 St Leonards Road and Brighton Road are predominantly residential roads, with Brighton Road being one of the main routes into Horsham town centre from the south east of Horsham. 51 Brighton Road to the south of the site is grade II listed.

## 2. INTRODUCTION

### STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

### RELEVANT PLANNING POLICIES

- 2.2 The following Policies are considered to be relevant to the assessment of this application:

#### **National Planning Policy Framework (NPPF)**

#### **Horsham District Planning Framework (HDPF)**

Policy 1 - Strategic Policy: Sustainable Development

Policy 3 - Strategic Policy: Development Hierarchy

Policy 12 - Strategic Policy: Vitality and Viability of Existing Retail Centres

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Policy 34 - Cultural and Heritage Assets

### RELEVANT NEIGHBOURHOOD PLAN

- 2.3 No neighbourhood plan has yet made for the combined Horsham Blueprint Neighbourhood Forum Area which comprises the unparished areas of Denne, Forest and Trafalgar neighbourhoods.

### PLANNING HISTORY AND RELEVANT APPLICATIONS

- 2.4 The most recent and relevant planning history relating to the site is as follows:

DC/13/0705	Installation of an ATM to the shopfront	Application Refused on 14.06.2013. Appeal dismissed.
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DC/14/0925	Installation of ATM with 4 no. removable bollards	Application Refused on 21.08.2014
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## 3. OUTCOME OF CONSULTATIONS

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at [www.horsham.gov.uk](http://www.horsham.gov.uk)

### CONSULTATIONS

- 3.2 **Conservation Officer:** No comments.

- 3.3 **WSCC Highways:** No objection. West Sussex County Council Highways were consulted previously on a similar proposal DC/13/0705 (installation of ATM) and DC/14/0925 which was also for an ATM and removable bollards – No Highway objections were raised, though

it is noted that The Local Planning Authority refused both applications and the DC/13/0705 was subsequently refused at appeal.

The Local Highway Authority does not consider that this proposal would have an unacceptable impact on Highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to The National Planning Policy Framework (Para 109) and that there are no transport grounds to resist the proposal.

#### PUBLIC CONSULTATIONS

- 3.4 15 letters of objection were received from 13 households in respect of the application as originally submitted. These raised the following concerns:
- Noise disturbance.
  - Increase in light pollution.
  - Lighting to store currently remains on after store closing time.
  - Increase in traffic to/from the site.
  - Highway safety concerns.
  - Insufficient parking on site.
  - Potential for anti-social behaviour.
  - No need for ATM.
  - Users still accessing the site as they may not be aware that the ATM is not 24 hours.
  - Increase in inappropriate off-site parking.
- 3.5 A further 7 letters of objection from 7 households were received in respect of the additional information submitted. These raised the following concerns:
- Noise disturbance.
  - Increase in light pollution.
  - Lighting to store currently remains on after store closing time.
  - Increase in traffic to/from the site.
  - Highway safety concerns.
  - Insufficient parking on site.
  - Potential for anti-social behaviour.
  - No need for ATM.
  - Future pressure to operate the ATM 24 hours a day.

#### PARISH COUNCIL COMMENTS

- 3.6 **Forest Neighbourhood Council** – objects to the application on the following grounds:
- There has considerable increase in traffic since the previous application for an ATM in 2013
  - Unacceptable level of disturbance which could be exacerbated by the installation of the unit
  - If the Local Planning Authority are minded to approve the application the unit should be controlled by the use of conditions

#### MEMBER COMMENTS

- 3.7 **Councillor Skipp** – Request for application to be heard at Committee.
- 3.8 **Councillor Walters** – Request for application to be heard at Committee.

#### **4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS**

- 4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

#### **5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

- 5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

#### **6. PLANNING ASSESSMENTS**

- 6.1 This application seeks permission for the installation of an ATM (automatic teller machine) within an existing single storey extension on the western side of the building, which fronts Brighton Road and the stores vehicular access.

##### **Background to Application**

- 6.2 The proposal to install an ATM at the site was the subject of two applications in 2013 and 2014. DC/13/0705 was refused by the Council on the grounds that adequate provision could not be made for the parking of vehicles on the site in a satisfactory manner, that the proposal would likely result in standing vehicles which would interrupt the free flow of traffic on the public highway and would likely cause unacceptable harm to the amenities of nearby residential occupiers by way of activity and general disturbance.
- 6.3 The proposal was subsequently dismissed at appeal, however the Inspector considered "*that there appears to be adequate legal parking provision on the site or surrounding it, for the likely requirements of a single ATM in addition to the shop use*" and "*On the evidence available the proposed installation would be unlikely to adversely affect highway safety or the free flow of traffic.*" He did however refuse to grant permission on the grounds that "*there is a risk, due to the location and visibility of the ATM, that overnight use could adversely affect the living conditions of neighbouring residents at a time when a lack of noise and disturbance might reasonably be expected.*"
- 6.4 The subsequent application (DC/14/0925) proposed some minor changes to the proposal however this was also refused on the grounds that the applicant had not demonstrated that sufficient measures had been incorporated into the scheme to reduce the level of activity and vehicle movements on the site, thereby creating noise and disturbance that would have an adverse effect on neighbouring amenity.

##### **Principle**

- 6.5 There is no objection in principle to the installation of an ATM facility in connection with the retail use of the site subject to the use of the facility not having external impacts to the detriment of residential amenity and/or highway safety. The ATM is of a scale and design of a standard ATM with an illuminated band. It is considered that the ATM would not be out of keeping with the retail character of the building onto which it is proposed.
- 6.6 The main issues in respect of the proposal therefore are:
- The effect of the proposal on highway safety and the free flow of traffic.
  - The effect of the proposal on the living conditions of residential occupiers with particular regard to noise and disturbance.

## **Policy Context**

- 6.7 Paragraph 92 of the National Planning Policy Framework (NPPF) set out that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, amongst other things, ensure established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.
- 6.8 In respect of noise, paragraph 180 of the NPPF seeks, amongst other criteria, to ensure that decisions mitigate and reduce to a minimum potential adverse impacts resulting from noise from new developments and avoid noise giving rise to significant adverse impact on health and the quality of life. The Planning Practice Guidance (2019) sets out that decisions need to take account of the acoustic environment and in doing so consider whether or not a significant adverse effect is occurring or likely to occur, and whether or not a good standard of amenity can be achieved.
- 6.9 Paragraph 109 of the NPPF sets out that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.10 Policy 33 of the Horsham District Planning Framework (HDPF) advises, amongst other things, that development will be permitted if it does not cause unacceptable harm to the amenity of occupiers/users of nearby property and land, for example through overlooking or noise, whilst having regard to the sensitivities of surrounding development. The policy also requires development to incorporate measures to reduce any actual or perceived opportunities for crime or antisocial behaviour on the site and in the surrounding area.
- 6.11 Policy 40 of the HDPF advises, amongst other things, that development will be permitted if it provides a safe and adequate means of access and makes adequate provision for all users, including for car and other vehicle parking, giving priority to people with mobility difficulties, pedestrians, cyclists and equestrians. Policy 41 of the HDPF also seeks to ensure that adequate parking and facilities are provided within developments to meet the needs of anticipated users.

## **Highway Safety**

- 6.12 The proposal to install an ATM does not propose any adjustments or alterations to highway safety, free flow of traffic, access, visibility or parking arrangements - elements that were previously approved under planning application DC/13/0758 which related to widening of the vehicular access in association with the use of the building for retail purposes.
- 6.11 With regards to the potential intensification of use at the site and the impact of this on highway safety and the free flow of traffic into and out of the site, the Inspector in his consideration of a similar proposal back in 2014 noted that the appellant asserts that ATM users tend to combine cash withdrawal use with spending in the shop in any event, but that spend could be by debit card, the medium used to access the cash withdrawal and that it is reasonable to assume that some additional parking would be caused by the visible location of the machine attracting users wanting cash whilst on other journeys, or as a destination. He however concluded that there appeared to be adequate legal parking provision on the site or surrounding it, for the likely requirements of a single ATM in addition to the shop use and on the evidence available the proposed installation would be unlikely to adversely affect highway safety or the free flow of traffic.
- 6.13 West Sussex County Council as the Local Highway Authority have advised that the proposal is not anticipated to result in a material intensification of use or create a demand for additional parking provision, and on this basis they have concluded that the proposal would not have

an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network.

- 6.14 The comments of the Inspector in his consideration of the previous proposal considered in 2013 are as follows:

*"Whilst use during the opening hours of the shop is unlikely to add to vehicular parking and traffic on site and nearby, as to cause harm, there is a risk, due to the location and visibility of the ATM, that overnight use could adversely affect the living conditions of neighbouring residents at a time when a lack of noise and disturbance might reasonably be expected. The information supplied does not allow that risk to be discounted in this decision, to a level that would allow the proposal to be permitted. For the reasons given above it is concluded that the appeal should be dismissed".*

- 6.15 The Inspector dismissed the appeal on the grounds of the impact of the use of the ATM at night. No concerns were raised with regard to the day time use of the ATM in conjunction with the existing shop. The current proposal limits the use of the ATM to daytime use and WSCC have not raised any objections to the proposal in terms of highway safety or parking. Therefore, it is considered that the proposal would not result in an adverse impact on highway safety or the free flow of traffic to/from the site, as a result of the installation of the ATM.

### **Impact on Neighbouring Amenity**

- 6.16 Previous applications and the dismissed appeal reason all refer to the impact that an ATM at the site would have on the amenity of the occupiers of the neighbouring residential properties. Whilst the ATM itself would raise no concerns in this respect, the potential for noise disturbance resulting from people using the facility and from vehicles entering and exiting the site, has previously been raised as a concern and resulted in the refusal of planning permission.
- 6.17 The Inspector in his refusal of planning permission in 2014 noted that the hours of opening of the retail use (0700-2300) allows for an 8 hour closed period when there is an expectation from local residents of limited noise and disturbance even allowing for noise from Brighton Road. He stated that due to the visible location of the machine on a main road into/out of Horsham, users may be attracted to the machine while making late night or early morning journeys rather than only using it in combination with a trip to the retail facility. He noted that such use may well be infrequent, isolated occasions, but it is that type of noise and disturbance in the night that can cause unacceptable harm in a residential area. Use of the ATM would inevitably include car doors closing, manoeuvring and pulling away, all possible sources of unwarranted close-range noise. It was therefore concluded that there is a risk of noise and disturbance affecting the living conditions of neighbouring residential occupiers.
- 6.18 Whilst previous applications for an ATM at the site have proposed 24 hours use of the machine, the current application includes a number of measures to seek to overcome the concerns previously raised. These measures include:
- Restricting the hours of use of the ATM to the store opening hours only.
  - Installing a removal cover when the machine is not being used. This would be manually operated.
  - Switching off the machine outside of the hours of its operation. This is assumed to be switched off at 23:00 (store closure)
- 6.19 It is considered that the measures proposed by the applicant would limit the use of the ATM to the hours of use of the retail use only, and that this would restrict any overnight use of the machine which was a concern of both Officers and the Inspector in their consideration of previous applications. It is considered that the installation of an ATM at the site, in use during the opening hours of the retail use, would not result in any significant adverse impact on the

amenity of occupiers of neighbouring properties beyond that which may reasonably occur from the use of the site for retail purposes. On this basis, the proposal is considered to comply with Policy 33 in this respect subject to conditions requiring the measures put forward by the applicant being implemented.

## **Conclusion**

- 6.20 The application seeks permission for the installation of an ATM (automatic teller machine) within an existing single storey extension on the western side of the building, which fronts Brighton Road and the stores vehicular access. It is considered that the measures proposed by the applicant would limit the use of the ATM to the hours of use of the retail use only, and that this would restrict any overnight use of the machine which was a concern of both Officers and the Inspector in their consideration of previous applications. The proposal to install an ATM does not propose any adjustments or alterations to highway safety, free flow of traffic, access, visibility or parking arrangements. On the basis of advice received from WSCC as the Local Highway Authority, and having considered previous applications, officers are of the view that no impact on highway safety will result from the proposal which could warrant a refusal on planning grounds. On this basis the application is considered to comply with the relevant policies of the Horsham District Planning Framework and is therefore recommended for approval.

## **7. RECOMMENDATIONS**

- 7.1 It is recommended that planning permission is granted subject to appropriate conditions as detailed below:

1 **Plans Compliance Condition**

- 2 **Standard Time Condition:** The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 3 **Regulatory Condition:** The Automated Teller Machine (ATM) and associated lighting shall be switched off and the unit covered with a cover plate preventing access to and use of the machine (as shown on drawing no. 6788ele#.dwg) between the hours of 2300 hours and 0600 hours.

Reason: To safeguard the amenities of nearby residents in accordance with the aims of Policy 33 of the Horsham District Planning Framework (2015)

Background Papers: DC/19/1112

Planning Officer: Pauline Ollive