

# REPORT FOR NOTING

<b>DECISION OF:</b>	<b>PLANNING CONTROL COMMITTEE</b>
<b>DATE:</b>	<b>25 July 2023</b>
<b>SUBJECT:</b>	<b>PLANNING APPEALS</b>
<b>REPORT FROM:</b>	<b>HEAD OF DEVELOPMENT MANAGEMENT</b>
<b>CONTACT OFFICER:</b>	<b>DAVID MARNO</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain
<b>SUMMARY:</b>	<p>Planning Appeals:</p> <ul style="list-style-type: none"> <li>- Lodged</li> <li>- Determined</li> </ul> <p>Enforcement Appeals</p> <ul style="list-style-type: none"> <li>- Lodged</li> <li>- Determined</li> </ul>
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	The Committee is recommended to the note the report and appendices
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework? Yes
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	Executive Director of Resources to advise regarding risk management
<b>Statement by Executive Director of Resources:</b>	N/A
<b>Equality/Diversity implications:</b>	No
<b>Considered by Monitoring Officer:</b>	N/A

<b>Wards Affected:</b>	All listed
<b>Scrutiny Interest:</b>	N/A

**TRACKING/PROCESS**

**DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

**1.0 BACKGROUND**

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

**2.0 CONCLUSION**

That the item be noted.

**List of Background Papers:-**

**Contact Details:-**

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**Planning Appeals Lodged  
between 19/06/2023 and 16/07/2023**



**Application No.:** 69132/FUL

**Appeal lodged:** 22/06/2023

**Decision level:** DEL

**Appeal Type:**

**Recommended Decision:** Refuse

**Applicant:** Emerald Property Capital Ltd

**Location** 104 Ainsworth Road, Bury, BL8 2RS

**Proposal** Change of use from existing 6 no. bedroom house in multiple occupation (HMO - Class C4) to 7 no. bedroom (7 person) house in multiple occupation (HMO - Sui Generis)

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**Application No.:** 69189/FUL

**Appeal lodged:** 28/06/2023

**Decision level:** DEL

**Appeal Type:**

**Recommended Decision:** Refuse

**Applicant:** Mr S Postchi

**Location** 22 Cockey Moor Road, Bury, BL8 2HB

**Proposal** Variation of condition no. 1 (approved plans) of planning permission 68038 for erection of detached dwelling: Increase the size and height of the second floor and External alterations

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**Application No.:** 69244/FUL

**Appeal lodged:** 29/06/2023

**Decision level:** DEL

**Appeal Type:**

**Recommended Decision:** Refuse

**Applicant:** Cassel Fletcher Property Management Ltd

**Location** 424 Bury Old Road, Prestwich, Manchester, M25 1PR

**Proposal** Second floor extension at rear to form 1 no. flat and roof extension

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**Application No.:** 69467/FUL

**Appeal lodged:** 23/06/2023

**Decision level:** DEL

**Appeal Type:** Written Representations

**Recommended Decision:** Refuse

**Applicant:** Mr Paul McDonald

**Location** 35 Bankside Avenue, Radcliffe, Manchester, M26 2QH

**Proposal** Erection of decking on raised platform with steps, balustrade and fencing, garden room pod and covered spa area

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**Total Number of Appeals Lodged: 4**

**Planning Appeals Decided  
between 19/06/2023 and 16/07/2023**



**Application No.:** 68723/FUL

**Decision level:** DEL

**Recommended Decision:** Refuse

**Applicant:** Cardtronics UK Ltd, trading as CASHZONE

**Location:** 237 Wash Lane, Bury, BL9 7DH

**Proposal:** Retention of ATM (Automated teller machine)

**Appeal Decision:** Allowed

**Date:** 20/06/2023

**Appeal type:** Written Representations

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# Appeal Decision

Site visit made on 3 May 2023

**by David English BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> June 2023**

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**Appeal Ref: APP/T4210/W/22/3310489**

**237 Wash Lane, Bury BL9 7DH**

- 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 the Bury Metropolitan Borough Council.
  - The application Ref 68723, dated 4 July 2022, was refused by notice dated 21 September 2022.
  - The development is an automated teller machine.
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## Decision

1. The appeal is allowed, and planning permission is granted for an automated teller machine at 237 Wash Lane, Bury BL9 7DH in accordance with the terms of the application, Ref 68723, dated 4 July 2022, and the plans submitted with it.

## Preliminary Matters

2. The description of development given in the planning application was '*the retention of an automated teller machine and associated signage*'. The appellant confirms that the appeal relates only to the automated teller machine (ATM) and not to the associated advertisements which formed part of their original combined application for planning permission and advertisement consent. The appellant indicates they were awaiting a decision on that part of the application that sought consent to display advertisements at the time this appeal was made. It is therefore appropriate that the description relates only to the development for which planning permission has been refused and which is now the subject of this appeal.
3. The evidence indicates that the ATM was installed in August 2021, and I saw that it was operational at the time of my visit. I have considered the appeal on the basis of the ATM that I saw, and this appeared to be consistent with the details provided in the planning application.
4. Accordingly, I refer to the ATM as 'the development', including in the banner heading above. I have removed the word 'retention' from the description of development since this does not constitute a form of development. These changes are consistent with the information provided in evidence. While they have not been subject to separate consultation or formal agreement, I consider that the description I have used accurately describes the development for which permission was sought, and these changes would not prejudice the interests of any party.

## **Main Issues**

5. The main issue is the effect of the development on public safety, the safety of staff, and crime prevention at and in the vicinity of the site.

## **Reasons**

6. The appeal site is a general convenience store on the corner of Willow Street and Wash Lane, a busy road junction in a primarily residential area. The ATM has been installed in the side wall of the building within a security studwork panel which replaces a window that previously faced Willow Street. There is a wide tarmacked area between the ATM and the kerb to the footway on Willow Street. Due to the chamfered return of the side wall of the building, this area widens further as it leads to a private forecourt outside the front of the shop. Accordingly, what appears as a triangular hard-surfaced area exists immediately in front of the ATM.
7. A public streetlight is located close to the side wall of the building and the ATM. The position of the streetlight column is such that pedestrians approaching the ATM from either direction along Willow Street would naturally move away from the ATM in order to avoid contact with the streetlight column. This has the effect of creating a mainly unused space immediately in front of the ATM into which most people would naturally tend not to stray unless they were using the ATM. The space available for people using the ATM is largely protected by the positioning of the streetlight column which, along with another nearby streetlight in the pavement to the front of the store, also adds a good degree of security and assurance to this location due to the down-lighting that would aid visibility during the hours of darkness.
8. The site is in a prominent location close to well-used highways. There are security cameras positioned inside the store and in positions facing Wash Lane and Willow Street, and the evidence includes a photograph demonstrating the internal and external coverage and describes the arrangements for storing images through these sources. While cameras do not appear to directly face the ATM, I am satisfied that the coverage they can provide will enable adequate direct surveillance in and around the store and the surrounding highways and, being clearly visible features attached to the building, they should act as a deterrent to planned or opportunistic crime.
9. The positioning of the ATM benefits from natural surveillance associated with the occupation of nearby dwellings which directly overlook the site. Surveillance is also provided by pedestrians using the store and those passing through the area, including people taking advantage of the light-controlled pedestrian crossing outside the front of the store. The convenience store opens late into the evening, and I would expect regular pedestrian activity to continue in the vicinity throughout the day and evening.
10. I saw a significant volume of traffic passing along Wash Lane and through the junction with Willow Street during my visit in mid-afternoon. While recognising that this provides a snapshot in time, I noted that vehicles are regularly stationary in the demarcated right-turn lane on Wash Lane which allows drivers waiting to turn into Willow Street direct sight of the ATM. Traffic volumes are likely to change throughout the day. However, for much of the day this would provide another source of natural surveillance and would act as a deterrent against criminal activity.

11. The evidence describes the measures taken during installation of the development to securely fix the ATM in place and to protect it against attack. The ATM is alarmed, and it is serviced from the back, inside the shop. There is unrestricted parking on Willow Street a short distance from the shop where direct line of site to the ATM from service vehicles would be available to staff involved in replenishing the ATM. In these circumstances I am not convinced that requiring a dedicated parking area for a cash-in-transit vehicle would be reasonable. Although the arrangements for replenishment may not be precisely as recommended by the Greater Manchester Police Crime Prevention Team (the GMPCPT), I am mindful that the ATM has been in use for some time and will have been replenished throughout that time.
12. I acknowledge that the ATM could present a crime risk. However, the evidence presented by the Council does not describe the incidence of criminal, threatening or anti-social activity associated with the ATM over the period it has been available for use. I have not been provided with evidence to show that this area is particularly vulnerable to attacks on ATMs, or that the area has problems in respect of public safety associated with the use of ATMs. In my judgement, when taken together, the security measures associated with the installation of the development, the presence of security cameras, and the widespread and multi-faceted natural surveillance present in this location reduce the vulnerability of the ATM and people using it, and they should act as a deterrent against potential criminal activity in the area. ATMs provide a valuable service to local communities and, overall, the measures I have noted should minimise, as far as is practicable, the fear of crime for users of the ATM.
13. I conclude that the development is not harmful to public safety, the safety of staff, and crime prevention at and in the vicinity of the site. Accordingly, it complies with Policy EN1/5 of the Bury Unitary Development Plan (August 1997) in respect of encouraging development which includes environmentally sensitive features aimed at discouraging crime. Although the evidence before me does not confirm its status, the development generally complies with the 'Basic Principles' described in the Council's Development Control Policy Guidance Note 3: Planning Out Crime in New Development (June 2001). The development also accords with the National Planning Policy Framework (the Framework) which seeks to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.
14. The Council's reasons for refusal refer to paragraph 14 of the Framework. However, that paragraph relates to housing provision, and this is not a determinative matter on the main issue in this case.

### **Other Matters**

15. The Council's first reason for refusal relates to measures within the highway recommended by GMPCPT. The Council's concerns lie in the effects those measures would have on pedestrian safety and on maintenance liabilities for the Highway Authority. However, having regard to the physical characteristics of the locality, including the features I have described in the vicinity of the ATM, I am not convinced that defensible zone markings on the pavement are necessary in this case. I am satisfied that the ATM can be used safely by the public, the ATM is physically secured, and the servicing and replenishment arrangements as described in the evidence are sufficient. Accordingly, I find

the potential for criminal attack on the ATM, staff, and people using it has been minimised as far as is reasonably practicable and there is no need to install those measures recommended by the GMPCPT in this instance. For these reasons I also find the proposal would not be detrimental to pedestrian safety.

16. The Council has confirmed that they do not wish to recommend any planning conditions in this case. I am satisfied that no further works or measures within the highway would be necessary to make the development acceptable and, given that the development has been undertaken and the ATM has been in use since August 2021, no other planning conditions are necessary.

### **Conclusion**

17. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed.

*David English*

INSPECTOR