
Appeal Decision

Site visit made on 6 September 2016

by L Fleming BSc (Hons) MRTPI

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

Decision date: 10th October 2016

Appeal Ref: APP/Q3060/W/16/3150846
54 Long Row, Nottingham NG1 6JB

- 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 Mecca Bingo Ltd against the decision of City of Nottingham Council.
 - The application Ref 16/00178/PFUL (PP-047768778), dated 25 January 2016, was refused by notice dated 22 March 2016.
 - The development proposed is change of use to bingo hall with internal alterations and air conditioning compressors.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues to be the effects of the proposed development on:
 - the vitality of Nottingham City Centre;
 - the character and appearance of the area bearing in mind it would be within the Old Market Square Conservation Area, No 54 Long Row is grade II* listed and the proposed development would be within the setting of other listed buildings nearby;
 - health and social and cultural well-being.

Reasons

Vitality

3. The appeal premises are the ground floor and basement of a four storey building located within a primary shopping frontage of Nottingham City Centre (NCC). Although currently vacant, the most recent use of the appeal premises was as retail within Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO). The proposal would seek to change the use of the appeal premises to a bingo hall falling within Class D2 of the UCO.
 4. Policy 5 of the Greater Nottingham Aligned Core Strategies (2014) (CS), states that the Council will maintain a prosperous, compact and accessible retail centre by among other things, ensuring that primary shopping frontages remain predominantly in retail and shopping use (Use Class A1).
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5. Furthermore, saved Policy S6 of the Nottingham Local Plan (2005) (LP) states planning permission will be granted within primary shopping frontages for the change of use from shops falling within Class A1 of the UCO to other uses provided the proposed use would not be detrimental to the vitality and viability of NCC. Saved Policy S6 of the LP also sets out a range of factors including vacancies nearby, the distribution of uses, the length of the frontage of the proposal and its prominence in the shopping area all of which should be considered in assessing the effect of a proposal on the vitality and viability of NCC.
6. I acknowledge the appellant's comments with regard to the Nottingham Retail Study (2013) findings and that this study informs a draft planning policy which proposes that part of Long Row including the appeal site would be designated as a secondary shopping frontage. However, neither the Nottingham Retail Study nor the draft policy has been put before me. Furthermore, in any event the draft planning policy has not yet been examined and I am not aware of the extent of or whether there are any unresolved objections. I am therefore only able to afford the emerging policy limited weight.
7. I have also noted the FHP Property Consultants statement which questions the attractiveness of the appeal site to potential occupiers and I note that there may be impacts on demand for retail space in this part of NCC arising from the planned expansion of major shopping centres in NCC. However, the fact remains that the appeal premises are within an area designated as a primary shopping frontage in the development plan and I find the aims of Policy 5 of the CS and Policy S6 of the LP are broadly consistent with the aims of ensuring the vitality of Town Centres set out in the National Planning Policy Framework (the Framework). On this basis I afford the primary shopping frontage designation and these development plan policies significant weight.
8. The appeal premises have a relatively wide frontage and are prominently located on the edge of Old Market Square (OMS), a large open area which is free from any significant tall structures and affords wide ranging views of the appeal premises, particularly from the east and south east. Whilst Long Row and Angel Row to the west of the appeal site contain a varied mix of uses including bars, restaurants, libraries and shops, to the east there is a higher concentration of shops falling within Class A1 of the UCO.
9. When viewed from Long Row and OMS, even though the existing shopfront would be retained and refurbished, large sections of the window display would be taken up by vinyl screening below a drinks shelf. Whilst the presence and activity of people within the premises would be visible from the street, this would provide very little interest to the shopping frontage. Moreover, such uses often have a tendency to be used more intensively later in the day with very little interest and limited activity during core shopping hours
10. Even though the proposed LED screens are intended to provide a degree of interest, it is not clear how this would be achieved with any degree of success. Furthermore, the particulars of the proposed vinyl screen, in terms of colour and detailing, are not apparent from the submitted plans. Thus, on the basis of the information before me I am not satisfied that the resultant frontage would provide a realistic degree of visual interest which would be beneficial to the primary shopping frontage. Overall, I find that the proposed treatment of

the ground floor windows would appear bland and lack interest thus harming the vitality of the primary shopping frontage and NCC.

11. I am told that there are 21 vacant units nearby on the west part of Long Row, Market Street and Upper Parliament Street. However, the concentration of vacancies increases heading away from the main retail core of NCC, and there were only very few vacancies in the immediate vicinity of the appeal site, particularly to the east. Furthermore, the majority of the vacant units appear much smaller than the appeal premises and in my view they are not directly comparable in terms of size or location.
12. I acknowledge that the appeal premises have been vacant for some time, during which they have been marketed with only limited interest. However, the full details of the marketing strategy are not before me. I also note that Sainsbury's intended to occupy the appeal premises, but failed to obtain the required licenses. Thus, whilst I acknowledge the comments about the size of the premises and their location, the submitted evidence lacks sufficient detail for me to be convinced the premises would not be attractive to a business use falling within Class A1 of the UCO. To allow the appeal sites conversion to a use not falling within Class A1 of the UCO, without such detailed evidence would be harmful to the vitality of NCC.
13. I acknowledge the reuse of the premises would enhance the vitality of this part of NCC. Furthermore, the proposed development would also provide employment opportunities and add to the diversity of uses in the immediate vicinity of the appeal site. I have also considered the findings of the various studies¹ which identify the value of leisure uses and the increasing role of centres as leisure destinations and their contribution to the night time economy. However, these matters do not outweigh the harm I have identified.
14. Therefore, overall I find the proposed development would result in a loss of retail space in a highly prominent location which forms part of a primary shopping frontage. This would be harmful to the vitality of NCC and thus the proposed development would be in conflict with the development plan and the Framework. It would specifically conflict with Policy 5 of the CS and saved Policy S6 of the LP, which taken together seek to ensure primary shopping frontages in NCC are primarily used for shopping and to safeguard the vitality of NCC.

Character and appearance and heritage assets

15. The appeal site is within the OMS Conservation Area (CA), the appeal building is grade II* listed and within the setting of a number of buildings nearby which are listed.
16. I note that the Council has already granted listed building consent for the proposed development. However, in accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore, section 66(1) of the same Act requires that special regard must be had to the desirability of preserving the setting of listed buildings or any features of special architectural or historic interest. Paragraph 132 of the Framework

¹ High Street Performance and Evolution, Southampton University, 2014 and British High Street Performance and Evolution, the Economic and Social Research Council, 2015

states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

17. Based upon the name of the CA, its boundary and observations from my site visit, it is clear to me that the OMS is the centre piece of the CA and its main feature of significance. The appeal premises are visible from the OMS at the entrance to a main route to and from it. Whilst I acknowledge the appeal premises historical use is as retail, the building would still be used as a public facility and I note that there are numerous other non-retail public facilities nearby, such that I find that the change in use of the appeal premises would not harm the significance of the OMS or the significance of the listed building or the setting other listed buildings nearby.
18. Other than the proposed window display and signage, the existing shopfront would remain unaltered. I acknowledge that the proposed use may increase the pressure for further advertisements to be displayed. However these would be likely to require a separate application for advertisement consent.
19. For these reasons, whilst I have found the proposal to be unacceptable in terms of its impact on the vitality of NCC, I find the proposed development would not harm the character and appearance of the area or the significance or setting of any designated heritage assets. Thus, I find that the character and appearance of the CA would be preserved. I have also paid special attention to the desirability of preserving the listed building, however given that listed building consent has already been granted and I am dismissing the appeal for other reasons, I have not considered this matter in detail.
20. In this regard, I therefore find the proposed development would accord with the design and conservation aims of the development plan, the statutory duty and the design and conservation aims of the Framework. It would specifically comply with Policy 11 of the CS and saved Policies of BE10 and BE11 of the LP which seek to ensure, good design and that new development responds positively to the character of an area and the preservation and enhancement of designated heritage assets.

Health, social and cultural well-being

21. The Council's Director of Public Health has objected to the proposed development on the basis that the proposal would encourage gambling and thus have a negative impact on health and well-being.
22. I note the evidence that when compared to the national average Nottingham City has higher levels of deprivation and its population has lower levels of life expectancy; both of which I acknowledge can be related to risks associated with problematic gambling. However, there is nothing before me to indicate there is a particular problem in the immediate vicinity of the appeal site. Furthermore, the appellant would be a licensed operator and has to comply with the Gambling Commission's Licence Conditions and Code of Practice and I note that detailed policies would be in place to ensure responsible gambling takes place on the premises.
23. Furthermore, the proposed use is listed in the definition given for main town centre uses set out in annex 2 of the Framework, thus the Framework encourages such uses to be located within town centres. Therefore on the

basis of the information before me, I find that the proposed development would have a neutral effect on health, social and cultural well-being.

24. For these reasons, in this regard the proposed development would accord with the sustainable development aims of the development plan and the Framework. It would specifically accord with Policy A of the CS and paragraphs 7 and 17 of the Framework which taken together set out a presumption in favour of sustainable development.

Other Matters

25. I acknowledge that the Council has recently granted a licence for the proposed use to operate on the appeal premises. However, the objectives of the licensing controls are concerned with matters such as the prevention of crime and disorder, public safety and the prevention of public nuisance and are not directly concerned with matters such as the vitality of NCC.
26. I have also noted the Inspector's conclusions in appeal decision ref APP/V2255/A/09/2114379. However, whilst the Inspector found that a development similar to that proposed was acceptable in a town centre location, I have assessed the appeal proposal on its merits with regard to bespoke site specific circumstances which cannot be directly comparable.

Conclusion

27. For the reasons given above, whilst I have found no harm to the character or appearance of the area, designated heritage assets or health, social and cultural well-being I have found harm to the vitality of NCC, which is the prevailing factor. Thus having had regard to all other matters raised, I conclude that the appeal should be dismissed.

L Fleming

INSPECTOR