
Appeal Decision

Site visit made on 22 November 2016

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 26th January 2017

Appeal Ref: APP/A2335/W/16/3157337
24 Cheapside, Lancaster, LA1 1LZ

- 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 Done Brothers (Cash Betting) Ltd against the decision of Lancaster City Council.
 - The application Ref 16/00753/CU, dated 13 June 2016, was refused by notice dated 27 July 2016.
 - The development proposed is a change of use to a betting shop (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use to a betting shop (sui generis) at 24 Cheapside, Lancaster, LA1 1LZ in accordance with the terms of the application, Ref 16/00753/CU, dated 13 June 2016, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan; 1110 BF-SF Rev 5; 1110 BF-LP Rev 3.

Preliminary Matter

2. The site has recently been subject to an appeal decision (ref APP/A2335/W/15/3138221), which was dismissed, for a very similar development to that currently proposed. The previous scheme was also for a change of use to a betting shop, albeit with significant alterations to the exterior of the building. I have taken the previous inspector's findings into account in my decision. Nonetheless I have reached my own findings based on the circumstances of the present case.

Main Issue

3. The main issue is the effect of the development on the vitality and viability of Lancaster City Centre.

Reasons

4. The appeal building is located within Lancaster City Centre. It is currently vacant, and was last used as an ice cream parlour (use class A3). Prior to that it had operated as an A1 retail unit, but was granted planning permission for a
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- change of use from class A1 to A3 in 2013 (ref 13/00782/CU). The unit has been vacant since February 2015.
5. The appeal building forms part of a designated Primary Retail Frontage, which have been identified due to their importance to the town centre. Policy DM2 of the Lancaster District Development Management DPD covers development within Primary Retail Frontages. This states that *"the primary purpose of this policy is to promote town centre A1 retail uses on prime frontages within the defined town centre boundary which can generate active street frontages during normal daytime trading hours"*. The policy further states that *"proposals within primary retail frontages which involve the change of use of ground floor premises to non-A1 uses will only be permitted where:*
 - I. All adjoining frontages have an A1 retail use which generates an active street frontage during normal daytime trading hours; and*
 - II. The proposal ensures that all uses on the ground floor provide an active street frontage that would be open during normal daytime trading hours; and*
 - III. The proposal does not result in the proportion of non-A1 uses exceeding 20% of continuous retail frontage."*
 6. The units on either side of the appeal property are currently in non-A1 use, and the proposal would therefore fail to comply with criterion I of Policy DM2. However, the appeal property was last in an A3 use and the proposal would therefore not involve the loss of an A1 use, which Policy DM2 seeks to protect. In this regard, the proposal would not alter the proportion of A1 units in the frontage nor affect the retail offer, choice, or competition in this location. In addition, the proposed opening hours would provide an active street frontage during normal daytime hours. The appellant has also provided evidence, which has not been contested, that the proposed use would attract significant levels of footfall that would support the vitality of the area.
 7. For these reasons, there would be no harm to the vitality and viability of the centre arising from the development. In addition, the appeal building is in a prominent location and has been vacant for almost 2 years. The proposal would bring this unit back into use which would also support the vitality of the area.
 8. The Council state that the previous approval to change the use to an A3 ice cream parlour was granted on its own merits, and should not set a precedent for further changes of use. Whilst that may be so, the fact that the unit is no longer in A1 use is clearly a relevant consideration in this case.
 9. I am aware that betting shops have been specifically excluded from the A2 Use class and are now a sui generis use. However, there are no local policies before me that seek to restrict the spread of betting shops in this area. Accordingly, there is no basis for resisting the appeal proposal based on the nature of the use.
 10. Whilst the future of the current betting shop premises on Church Street is unknown, that is not a reason to withhold permission in this case. The likelihood of the appeal unit reverting to an A1 use in the future is similarly unknown, albeit the appellant's marketing evidence indicates that there is presently limited demand for this. Furthermore, given that the unit is already

in a non-A1 use, I do not consider that the proposal would blur the distinction between the primary and secondary retail areas in this location.

11. Separately, the elevation plans indicate that the shop window would contain two internal advertising panels. However, these are relatively small in comparison to the wider glazed shop frontage. They would not be large enough to significantly restrict views into the premises, or to prevent an active street frontage from being maintained. The level of visibility into the premises would be comparable with other nearby shop windows that I observed on my site visit.
12. For the above reasons, I conclude that the development would not harm the vitality and viability of Lancaster City Centre. Whilst it would not strictly accord with Policy DM2 of the Lancaster District Development Management DPD (2014) no harm would arise from this conflict. The development would also bring a prominent vacant unit back into use, which would support the vitality of the town centre. In my view, these considerations outweigh the failure to comply with the development plan in this case. In this regard, the proposal would also be in accordance with the National Planning Policy Framework, which seeks to support the vitality and viability of town centres.

Other Matter

13. The appeal building is located within the Lancaster Conservation Area, which covers the central areas of the City. It is within the City Centre Character Area and is part of Lancaster's historic commercial and cultural core. The building itself dates to the C18 or early C19 and retains a number of traditional details. It is characteristic of the historic development along Cheapside and contributes positively to the character and appearance of this part of the conservation area. The Council state that the development would enhance the area by repainting the retained historic shop front. In these circumstances I am satisfied that the proposal would represent a modest enhancement to the character and appearance of the conservation area, which would accord with the Framework.

Conditions

14. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary for clarity and to ensure a satisfactory development.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR