
Appeal Decision

Site visit made on 9 January 2017

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 27 January 2017

Appeal Ref: APP/H5960/W/16/3159882

Ground Floor, 71 Mitcham Road, Tooting, London SW17 9PB

- 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 G T Promotions Ltd against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2016/3238, dated 23 May 2016, was refused by notice dated 5 August 2016.
 - The development proposed is change of use from retail to amusement centre (adult gaming centre).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effects of the proposal on the retail function of the area.

Reasons

3. The appeal relates to this ground floor property which is within the Tooting Town Centre. The property sits within the secondary shopping frontage. Policy PL 8 of the Local Plan Core Strategy (CS) is a broad policy which, amongst other things, seeks to promote retail uses in centres and encourages a mix of appropriate uses in centres.
4. Policy DMTS 4 of the Local Plan Development Management Policies Document (DMPD) specifically relates to secondary frontages and states that in town and local centres proposals "...will be permitted if...": a) a minimum of 50% of units would remain in A1 use; b) the proposed use is an appropriate A class use complementary to the secondary retail shopping function of the frontage and should contribute to vitality and viability, and; c) a shopfront is provided. It is acknowledged by the Council that a) and c) are or could be met.
5. The appellant has provided much information relating to the nature of the proposed use and its likely attractiveness to the public. I have no reason to doubt the information submitted and envisage that the use would be appropriate to a centre and that people would be attracted to it.
6. With specific reference to the detailed aspects of Policy DMTS 4, the appellant draws my attention to the specific wording in the policy and suggests that the

failure to meet the criteria a) to c) does not mean that there is conflict with the policy and that proposals can still comply as the policy does not state that proposals will be refused if the criteria are not met. I don't wholly accept the force of the appellant's point and the criteria within the policy set clear tests for the acceptability of such proposals; in any event such judgements will also be subject to other material planning considerations.

7. It is notable to me that the wider section of the DMPD is entitled "*Protection of **shopping facilities** within identified **shopping frontages** and uses acceptable to other frontages*" (my emphasis). The wording of criterion b) of Policy DMTS 4 also refers specifically to an appropriate A class use complementary to the secondary shopping function of the frontage. The proposed use is not within the A classes as a matter of agreement and in my view does not accord with this part of DMTS 4. Furthermore, even taking account of the additional supporting evidence which has been submitted, the proposal would not complement the retail function or protect the shopping facilities of the frontage. Policy DMTS 4 has a specific wording which seeks to allow A class uses which complement the retail function of the frontage; whilst the proposal is not within the A class uses and is not a retail use and so, in my view would not complement the shopping function of the frontage.
8. I have taken account of the numerous appeal decisions referred to by the appellant but none of these relate to a scheme which is to be judged within the same policy context as this appeal proposal. I have acknowledged that the proposed use may be acceptable within a centre as a whole and that it may be attractive to members of the public, but the specific policy seeks to provide for A class uses which complement the retail function and the proposal is not retail nor within the A classes. Whilst I have noted the appellant's comments on the wording of Policy DMTS 4, I find that the proposal does not accord with criterion b) and the proposal would harm the shopping function of the area.
9. I have taken account of all other matters raised in the representations and for the reasons set out I conclude that the appeal should be dismissed.

S T Wood

INSPECTOR