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## Appeal Decision

Site visit made on 6 November 2017

**by G J Fort BA PGDip LLM MCD MRTPI**

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

**Decision date: 01 December 2017**

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**Appeal Ref: APP/Y5420/W/17/3180484**

**72 West Green Road, Tottenham, London N15 5NS**

- 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 Ms Frances D'Souza against the decision of the Council of the London Borough of Haringey.
  - The application Ref HGY/2017/1253, dated 19 April 2017, was refused by notice dated 19 June 2017.
  - The development proposed is the change of use to sui generis- adult gaming centre (amusement arcade), the installation of an air conditioning unit, the installation of a CCTV monitored surveillance system and internal redecoration.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use to sui generis- adult gaming centre (amusement arcade), the installation of an air conditioning unit, the installation of a CCTV monitored surveillance system and internal redecoration at 72 West Green Road, Tottenham, London N15 5NS in accordance with the terms of the application, Ref HGY/2017/1253, dated 19 April 2017, subject to the conditions in the schedule to this decision below.

### Procedural Matter

2. The Council adopted the Development Management Development Plan Document (the DM DPD) and the Tottenham Area Action Plan (the AAP) on 24 July 2017 following the date of the decision on the application that led to this appeal. The Council supplied the relevant policies of these adopted plans with its appeal documents, and the appellant has had the opportunity to make comments on these. Consequently, I consider that no prejudice would occur to any party as a result of my taking the AAP and DM DPD into account in my assessment of the planning merits of the appeal, which I must do to discharge the duty arising from section 38(6) of the Planning and Compulsory Purchase Act 2004.

### Main Issues

3. I consider the main issues in this appeal to be firstly, the proposed development's effect on the vitality and the viability of the West Green Road/Seven Sisters District Town Centre; and secondly, the effects of the proposed development on the living conditions of the occupants of adjacent residential properties in terms of noise and disturbance.

## Reasons

### *Site, Surroundings and Proposed Development*

4. The appeal property is the commercial ground floor of a mid-terraced building of three storeys. Situated within the West Green Road/Seven Sisters District Centre, the appeal property is part of a parade of commercial uses, fronting West Green Road, a long highway wherein a mix of commercial uses at ground floors and residential uses at upper floors predominate. The proposed development, as described above, seeks to change the use of the appeal property to an adult gaming centre.

### *Vitality and Viability*

5. The appeal property is in a secondary frontage for the purposes of the development plan. Policy DM42 of the DM DPD establishes, amongst other things, that within such frontages the use of ground floor units for appropriate town centre uses will be permitted firstly, where the overall number of units in non-retail use will not exceed 50% across the entire frontage; and secondly, an active frontage would be provided, or if this would not be possible, a window display or other appropriate town centre frontage.
6. The appellant estimates that around 32% of the West Green Road frontage is in non-retail uses, and I note also the Council has no concerns that the proposal would tip the balance over the 50% threshold. Whilst the supporting text to Policy DM42 includes references to types of uses that may be appropriate to a town centre, including 'non-retail uses that are often directly linked to shopping trips' it does not specifically exclude adult gaming centres from the definition. Consequently, taking these matters together, I consider that the proposed development would comply with the first aspect of Policy DM42.
7. Material submitted by the appellant includes no detail of the proposed shop frontage treatment. I note the Council's comments that elsewhere within the Borough adult gaming centres have inactive frontages. However, I saw along West Green Road that several retail and other uses included stickers and other obstructions in their window that restricted visibility into the units to a substantial degree, and this leads me to the view that other retail uses that could come forward for the appeal premises would not necessarily have a more active frontage than the proposed use. Moreover, I consider that an appropriately worded condition relating to the treatment of the frontage could be attached in this case to ensure that the expectations of the second aspect of Policy DM42 would be met. Consequently, in terms of both the proposed development's effect on the balance of non-retail uses within the secondary frontage, and in terms of its potential frontage treatment I find that it would not harm the vitality and viability of the district centre or inhibit efforts to regenerate it.
8. Whilst I note the Council's concerns regarding the proliferation of betting offices in the Borough, and references to the number of these in the wider area, I saw only three of these along West Green Road, and one close to its corner with Seven Sisters Road, and these were relatively dispersed. Moreover, the proposed use in this case is materially different to that of a betting shop and this is reflected in their sui generis status for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended). I

note also references to other opportunities to access gaming machines such as at nearby pubs and clubs; however, these uses are clearly materially different to the appeal proposal as gaming machines are only a limited element of a broader range of activities offered to their customers. Consequently, the presence of these uses in the wider environs of the appeal property does not demonstrate that the proposed development would cumulatively add to an over concentration or saturation of uses.

9. My attention has been drawn to the Council's *Scrutiny Review of the Clustering of Betting Shops in Haringey*<sup>1</sup> (the Scrutiny Review), which found no evidence that the clustering of betting shops generated any significant footfall or trade for local retailers; however, as I have found that no such clustering would occur in this instance, I consider that this matter does not weigh against the proposed development or alter my conclusions with respect to its fit as a town centre use for the purposes of Policy DM42.
10. I saw at my site visit a relatively low proportion of vacant units along West Green Road, and I note that the Council considers this to demonstrate a strong demand for commercial property in this area. Whilst I readily accept this analysis, I have no substantive evidence before me to suggest that the marketing of the appeal premises was deficient, and too narrowly focussed on A1/A2 uses. Indeed the proposed use is outside of those classes. Consequently, and combined with my findings related to the lack of harm the proposed development would cause to the vitality and viability of the district centre, the extent of the appeal premises' marketing is a matter that does not weigh against the proposed development to any material degree.
11. For the reasons given above, the proposed development would avoid harm to the vitality and viability of the West Green Road/Seven Sisters District Centre. Consequently, I can find no conflict with Policy SP10 of Haringey's Local Plan (adopted March 2013) (the Local Plan); Policies DM42 and DM46 of the DM DPD; Policy SS1 of the AAP; and Policies 2.14 and 2.16 of the London Plan: The Spatial Development Strategy for London-Consolidated with alterations since 2011 (adopted March 2016). Taken together, and amongst other things, these policies seek to ensure that the shopping and service role of district centres and their vitality and viability is supported and sustained.

### *Living Conditions*

12. I am mindful of comments regarding the potential for the proposed use to attract groups of people on the pavement outside of the appeal premises, and assertions regarding incidences of this in respect of betting shops elsewhere along the road. I also note the Scrutiny Review's comments regarding the potential for betting shops to become the catalyst for anti-social behaviour issues where there are pre-existing incidences of these. However, evidence of the likelihood of such incidences happening in connection with an adult gaming centre has not been supplied; and moreover, I am aware of references to dispersal orders effective in the area which could address any unduly harmful effects that may arise from the proposed development in this regard. I also consider that a condition restricting the hours of opening of the proposed use would limit any noise and disturbance that could arise from it to the hours of the day when the road is generally more active and has a louder background noise environment.

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<sup>1</sup> Published April 2011

13. I note assertions that the proposed development would result in a high level of footfall. However, I have not been supplied with any evidence to suggest that the level of footfall associated with the appeal premises would be materially higher than any other commercial use within a district centre. As a result, I consider that the proposed use would cause no material increase in levels of noise and disturbance in this respect.
14. Consequently, these considerations lead me to the view that the proposed development would not cause noise and disturbance of a degree sufficient to cause material harm to the living conditions of the occupants of adjacent residential properties. For these reasons, I can find no conflict with the National Planning Policy Framework (the Framework) insofar as, amongst other things, it seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

### **Other Matters**

15. The appeal property is within the Clyde Circus Conservation Area, and as a consequence I am mindful of the duty arising from section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, as the change of use as presented would cause no material alteration of the appeal property's external appearance, I conclude that the proposed development would preserve the character and appearance of the Conservation Area.
16. I am mindful of general concerns regarding problem gambling and addiction, and that there are high degrees of social, economic and financial deprivation in the area. I am also aware that a relatively large proportion of the population of the area are younger people. However, in this regard I am mindful of the conclusions of the Scrutiny Review<sup>2</sup>, which found that there was no evidence to indicate that having more opportunities to gamble present in an area necessarily led to an increase in problem gambling given the alternative media through which individuals are able to access gambling opportunities. Consequently, this matter does not carry any material weight against the proposed development.
17. I am also cognisant of the Council's comments regarding issues in respect of fixed odds betting terminals. However, the terms of the proposed use's licence would not allow the use of fixed-odds betting terminals at the appeal premises.
18. I have been supplied with no substantive evidence to suggest that the proposed development would inhibit the ability of prospective owners of adjacent flats to access a mortgage, and as a result this matter does not weigh against the appeal scheme.
19. Whilst I note comments regarding the potential for more family-orientated uses, shops, cafes or community facilities to occupy the appeal premises, as I have found a lack of harm to the vitality and viability of the area, and the living conditions of the occupants of adjacent properties, these are not matters that weigh materially against the proposed development in planning terms.
20. Consequently, none of these other matters, either taken individually or together, would alter my conclusions in respect of the main issues given above, or tip the planning balance against approval of the proposed development.

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<sup>2</sup> At paragraph 9.30

## **Conditions**

21. The Framework advises at paragraph 206 that planning conditions should only be attached where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
22. In the interests of certainty I have attached a condition which specifies the approved plans. To ensure that the proposed development would be sensitive to the living conditions of the occupants of adjacent residential properties, I have attached a condition restricting the proposed use's opening times. Whilst I note the appellant's references to uses with late night and early morning closing times in the wider area, I saw that the bulk of commercial uses within the appeal premises' host terrace did not have such late opening times. This consideration, taken together with the presence of residential uses at the upper floors of the premises leads me to the view that a closing time of 2200 would be reasonable in this case. However, given the commercial nature of the appeal premises' surroundings, I consider that an opening time of 0900 would be reasonable in this case rather than the 1000 suggested by the Council.
23. In order that the proposed development provides an active frontage in the interests of the vitality, viability, character and appearance of the area I have attached a condition requiring details of its frontage treatment to be submitted to the Council for its approval. This is of necessity a pre-commencement condition to ensure that the proposed use makes adequate arrangements in this regard.

## **Conclusion**

24. The appeal scheme would not conflict with the development plan insofar as the aforementioned policies are concerned. Accordingly, for the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should succeed.

*G J Fort*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Existing and Proposed Plan.
- 3) The use hereby permitted shall not be open to customers outside the following times: 0900-2200 Mondays to Sundays
- 4) Notwithstanding condition (2) no development shall take place until details of the proposed design and materials of the shop front and any associated roller shutter, fascia detail and window display have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and retained thereafter.