



Appeal Decision

Site visit made on 4 February 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 April 2020

Appeal Ref: APP/M5450/W/19/3241217 322 Station Road, Harrow HA1 2DX

- 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 William Hill Organization Ltd against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2930/19, dated 1 July 2019, was refused by notice dated 22 August 2019.
 - The development proposed is described as 'Change of use of the ground floor unit from flexible commercial (Use Class A1/A2/A3) to a betting shop (Use Class Sui Generis) to include external alterations (including installation of air conditioning units to the rear of the application site) and display of advertisements.'
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of ground floor from flexible commercial (Use class A1/A2/A3) to a betting shop (Use class Sui Generis); installation of two AC units at rear; new shopfront, at 322 Station Road, Harrow HA1 2DX in accordance with the terms of the application, Ref: P/2930/19, dated 1 July 2019, subject to the conditions set out in the schedule attached.

Procedural Matters

2. The description of the proposal includes the display of advertisements. However, the Council revised the description to read 'Change of use of ground floor from flexible commercial (Use class A1/A2/A3) to a betting shop (Use class Sui Generis); installation of two AC units at rear; new shopfront', omitting reference to the display of advertisements. It has been confirmed by the appellant that Advertisement Consent for the associated signage was granted by the Council on 22 August 2019¹. Therefore, I have not considered the proposed advertisements as part of this Section 78 appeal and used the Council's description of the proposal in the formal decision.
3. The Council has raised no issues regarding the proposed external alterations including the installation of air conditioning units at the rear of the property. Given the detail of the alterations and the location of the proposed air conditioning units, I have no reason to disagree. I have therefore restricted my consideration of the appeal to the proposed change of use.
4. The drawing reference of the Proposed Plan and Elevation as stated in the Council's delegated report and decision notice is Ref: FINAL/S/RS/521949/201.

¹ Application Ref: P/2995/19.

However, the drawing reference as stated by the appellant to have been submitted as part of the application is Ref: PROV/S/RS/521949/201. It has been confirmed by the Council that the correct drawing reference is PROV/S/RS/521949/201. I have therefore determined the appeal on this basis.

5. Additional information in the form of Footfall Research along with Marketing Information for No 322 Station Road (No 322) and nearby units, has been submitted by the appellant in support of the appeal². I am mindful that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the Council as local planning authority, and on which interested people's views were sought. The Council has had the opportunity to comment on the information as part of the appeal. I am therefore prepared to accept the additional information on this basis. I am satisfied that no interested party has been prejudiced by this approach.

Main Issue

6. The main issue is the effect of the proposed change of use on the vitality and viability of Harrow Metropolitan Town Centre.

Reasons

7. The appeal site is located on Station Road within the Primary Shopping Area and Primary Shopping Frontage of Harrow Metropolitan Town Centre (HMTc). Station Road is characterised by a mix of retail and commercial uses on the ground floor, and residential accommodation on the first floor and above.
8. The appeal unit, No 322, has been vacant for a number of years since the site was redeveloped following the grant of planning permission in 2016³. The appellant is currently located in No 320 Station Road (No 320) and, due to being given notice of the termination of its lease for No 320⁴ and the grant of permission to redevelop the site⁵, seeks to relocate its betting shop business to the adjacent unit of No 322.
9. Policy AAP17.D of the Harrow and Wealdstone Area Action Plan 2013 (HWAAP) states that 'Within primary shopping frontages the use of ground floor premises for retail, financial and professional activities, restaurants and cafes and pubs and bars will be permitted provided that a) The length of the primary frontage in non-retail use at street level in the centre (excluding any extant planning permissions) would not exceed 15% within Harrow town centre and 25% within Wealdstone district centre; b) The proposal would not result in a concentration of more than three unit frontages in non-retail use; c) The use would not create inactive frontage during the day; and d) The use would not be detrimental to the amenity of neighbouring occupiers or highway safety.
10. It goes on to state in Policy AAP17.E that 'Where proposals fall foul of criteria a) or b) the Council may consider an exception to these thresholds where it can be adequately demonstrated that the proposal will make a significant

² William Hill Footfall Research, Harrow (October 2019) and Marketing Information for 322 Station Road and advertised units nearby.

³ Application Ref. P/3489/16.

⁴ Letter from PKP French Solicitors 16 July 2015 Re 320 Station Road, Harrow, Middlesex.

⁵ Application Ref: P/5362/18, 320 Station Road, Harrow HA1 2DX, Redevelopment to provide four storey building comprising six flats (6 X 2 bed) with retail unit on ground floor (Class A1); Refuse and Cycle storage. Decision Notice dated 11 July 2019.

contribution to the vitality and viability of the town centre.’ It also confirms in Policy AAP17.F that ‘Proposals for other uses within the primary shopping frontages will not be permitted unless it can be demonstrated that the use would be directly related to shopping trips and would support the retail function of the Metropolitan centre.’

11. I recognise that the proposal would result in two units in Sui Generis use adjacent to each other and that there would be no guarantee that No 320 (which is a larger unit than No 322) would be taken up by a retail use. However, the Council does not explicitly state that the proposal falls foul of criteria a) or b) of Policy AAP17.D. No evidence has been submitted confirming that it would exceed the 15% threshold of non-retail uses at street level and, given the existing A1 uses of the units either side of Nos 320 and 322, it would not result in a concentration of more than three unit frontages in non-retail use in this part of Station Road. In addition, there is no evidence before me which would cause me to doubt that the granted redevelopment of No 320 would not be implemented, which would mean that this situation would only exist for a temporary period.
12. The Council contends that the proposal fails to demonstrate that the proposed use would add significantly to the vitality and viability of HMTC. I have had regard to the research findings that were submitted by the appellant as part of the application⁶, which concluded that William Hill is a strong footfall generator compared to other traditional town centre uses, and the research paper referred to by the Council⁷, which suggests that betting shops have the reverse effect on the vitality and viability of a town centre. I recognise that the locations used in the appellant’s research are not directly comparable to HMTC, but I also note that both research papers are at least five years old and so the validity of the data and the conclusions reached in both cases are questionable.
13. In support of the appeal the appellant carried out additional Footfall Research in HMTC during October 2019. This consisted of footfall surveys to compare the number of people entering a range of premises along Station Road, and questionnaires with customers within the appellant’s premises to investigate their shopping habits and visit patterns.
14. The research concluded that the appellant’s premises was a strong footfall generator within HMTC, being the most visited unit amongst those that were surveyed. In addition, it found that a significant proportion of those that visit the betting shop will go on to shop at other units in HMTC creating linked trips that provide direct economic benefits to other shops and services in the area. In these respects, the appellant declares that its premises at No 320 contributes positively to the vitality and viability of HMTC and supports its retail function.
15. I acknowledge that this research was limited in terms of its duration and extent and, as such, only provides a snapshot of the situation. However, I have no reason to question its conclusions or doubt that the same result would be found if the appellant relocated to No 322. Furthermore, the Council has not challenged the findings of the research, nor has it provided any up to date substantive evidence of its own regarding the impact of betting shops or non-retail uses on the vitality and viability of HMTC. On this basis, in my

⁶ William Hill Research Study Findings MEMS Market Research Ref: 60317/01/JCO/EBo, dated 23 October 2015.

⁷ A Fair Deal; Betting Shops, Adult Gaming Centre and Pawnbrokers in Brent, dated 2013.

judgement, the research demonstrates that the proposed change of use would make a significant contribution to the vitality and viability of HMTC and that it would support the retail function of the Metropolitan centre.

16. To conclude on this issue, taking into account the evidence before me, the proposed change of use would not harm the vitality and viability of HMTC. As such, it would not conflict with Policies 4.7B and 4.8B of The London Plan (consolidated with alterations since 2011) 2016, which together and amongst other things, aim to ensure that the scale of retail, commercial, culture and leisure developments is appropriate and focused within town centres; and support a successful competitive and diverse retail sector and related services and facilities.
17. It would also comply with Policy CS1.L and CS1.M of the Harrow Core Strategy 2012 and Policy AAP17 of the HWAAP, insofar as town centres are promoted as the focus for community life, providing residents with convenient access to a range of facilities; and where it seeks to control the length and concentration of non-retail uses within the primary shopping frontages, only considering exceptions to the thresholds where it can be demonstrated that the proposal will make a significant contribution to the vitality and viability of the town centre.
18. It would also accord with the provisions within the National Planning Policy Framework (Framework) which aim to ensure the vitality of town centres.

Other Matters

19. I am aware that a previous application for the change of use of the appeal unit to a betting shop⁸ was refused by the Council. However, I understand that it would have increased the net number of non-retail units and the net number of betting shops within the Primary Shopping Frontage and HMTC and so is not directly comparable to the appeal before me. In any event, I have determined this appeal on its own planning merits and found no conflict with the development plan.
20. I note that the Council raises concerns about the proposal in relation to the reported crime statistics within the area and its impact on visitors shopping in the town centre and local residential development, highlighting the lack of information about how the betting shop would be secure and prevent crime. However, the proposal, in itself, would not result in a net increase of the number of betting shops, only a net increase of the number of non-retail units. Moreover, a condition which requires the implementation of the recommendations made by the Metropolitan Police would address these concerns.
21. I acknowledge that the proposed use as a betting shop would only be accessible to over 18 year olds and so would exclude a certain sector of society. However, this, in itself, does not justify withholding planning permission in this case.
22. The Council has highlighted the limited information provided regarding the marketing of No 322 and the high asking price relative to other units in the area. On this basis and given the low vacancy rate in the locale, it states that there is no overriding need to release the unit to a Sui Generis use. However,

⁸ Application Ref: P/0957/18.

additional information provided by the appellant, which has not been disputed by the Council, illustrates that the marketing was competitive in relation to other adjacent units. Furthermore, there is no substantive evidence before me which confirms that the proposal would materially compromise any potential future retail investment into HMTC.

23. None of the other matters raised outweigh my conclusion on the main issue.

Conditions

24. Upon request, the Council has suggested conditions to be imposed that it considers would be appropriate were I minded to allow the appeal. The appellant has had the opportunity to comment on these. I have considered the suggested conditions and comments in light of the advice set out in both the Framework and the Planning Practice Guidance. Where necessary, and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.
25. Planning permission is granted subject to the standard three year time limit condition. A condition is imposed specifying the relevant drawings as this provides certainty. I have omitted the drawing showing 'signage details' as this aspect of the proposal is the subject of a separate application for Advertisement Consent.
26. To assist the prevention of crime and disorder a condition relating to design standards and security measures is necessary. I have used the wording recommended by the Metropolitan Police as stated within the Council's delegated report, as this is more specific and it is confirmed by the Council that, if implemented, it would meet the relevant policy requirements. A canopy is already in situ and not proposed as part of this proposal, and so, this element has been omitted from the suggested wording. The appellant has provided written agreement to this pre-commencement condition.
27. In the interests of the living conditions of neighbouring residents, a condition to restrict the hours of opening is necessary.
28. Although not listed in the conditions suggested by the Council, there is reference in its delegated report to the need for a condition to mitigate any noise and vibration from the proposed air conditioning units. Therefore, in the interests of the living conditions of neighbouring residents, a condition to control this element of the proposal is necessary. The appellant has provided written agreement to this pre-commencement condition.

Conclusion

29. For the reasons given above and subject to conditions, I conclude that the appeal should be allowed.

F Cullen

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; Ref: FINAL/S/RS/521949/101, Existing Plan and Elevation; and Ref: PROV/S/RS/521949/201, Proposed Plan and Elevation.
- 3) Before the use hereby permitted takes place, the development shall comply with the following design standards:
 - i) The main entrance door must be single leaf and certified to LPS1175 issue 7 Security Rating:3 with lockdown capability for staff; and
 - ii) Door sets for staff areas must be certified to PAS24:2016.Once installed they shall be retained for so long as the use continues.
- 4) The use hereby permitted shall not be open to customers outside the following times: 08.00 hours to 22.00 hours, Monday to Saturday inclusive, and 09.00 hours to 22.00 hours on Sundays, without the prior written permission of the local planning authority.
- 5) Before the use hereby permitted takes place, the air conditioning units shall be installed in accordance with a scheme of noise and vibration mitigation measures to be first submitted to and approved in writing by the local planning authority. The air conditioning units installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.

End of Schedule of Conditions