



Appeal Decision

Site visit made on 16 December 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2020

Appeal Ref: APP/J2373/W/20/3258231

40 Abingdon Street, Blackpool FY1 1DA

- 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 Cashino Gaming Ltd against the decision of Blackpool Borough Council.
 - The application Ref 20/0187, dated 16 March 2020, was refused by notice dated 8 June 2020.
 - The development proposed was originally described as full planning permission for the change of use from a betting shop (sui generis) to an adult gaming centre (sui generis).
-

Decision

1. The appeal is allowed and planning permission is granted for alterations to front elevation and use of ground floor premises as altered as an adult gaming centre at 40 Abingdon Street, Blackpool FY1 1DA in accordance with the terms of the application, Ref 20/0187, dated 16 March 2020, 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: Dwg Nos: AS/BL/04 Rev C; and AB/BL/03 Rev A;
 - 3) The scheme of sound and vibration proofing measures detailed on plan reference AB/BL/03 Rev A shall be carried out before the premises is first brought into use and retained thereafter. The scheme shall include a self-closing door to the Abingdon Street elevation (which shall not be propped or held open), so that amplified music is not audible from the street;
 - 4) No amusement only equipment/machines shall be installed on the premises; and
 - 5) A window display shall be maintained at all times in the ground floor windows to the Abingdon Street elevation.

Application for costs

2. An application for costs was made by Cashino Gaming Ltd against Blackpool Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. In Part E of the appeal form it is stated that the description of the development has not changed. However, the wording from the Council's decision notice has

been entered rather than that from the application form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, and notwithstanding the description of development set out in the banner heading above, which is taken from the application form, I have used the one given on the Council's decision notice in my formal decision for completeness as this includes the description of the proposed works to the front elevation.

4. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (Regulations) came into force, amending the Town and Country Planning (Use Classes) Order 1987 (Use Classes Order). The main parties have had the opportunity to comment on any implications of this for the appeal as part of the process.

Main Issue

5. The main issue is the effect of the proposal on the vitality and viability of Blackpool Town Centre (the centre), with particular reference to its character.

Reasons

6. The appeal site is a vacant unit within a busy part of the centre. It is located close to, but outside of, the pedestrianised part of the centre where there is a marked shift in character with the noise and activity of vehicles prominent.
7. The Council refer to Policy SR6 of the Blackpool Local Plan (2006) (LP). This stipulates, amongst other things, that proposals which would be detrimental to the character of the area as one that caters primarily for the pedestrian/shopper/café user will not be permitted. Although adult gaming centres are not one of the identified uses specifically referred to in the policy as being unacceptable, I do not consider this to be a closed list of potentially unacceptable uses.
8. The appeal property was last used as a Betting Shop, a *Sui Generis* use as stipulated in the Use Classes Order. Although there are distinct differences there are also some similarities between the proposed use and its previous use. It is a type of use not out of keeping within a busy town centre location.
9. I recognise that the Council are working to regenerate the area and improve the retail offering and the street is an important route into the centre. However, there is no substantive evidence, taking into account the existing vacancy levels, length of time that the property has been vacant, and the marketing exercise undertaken, of a particular demand for retail space that would be undermined by the proposal.
10. In this regard, the proposal would not result in the loss of an existing retail unit and there is no firm evidence that the proposed use would undermine the Council's efforts to encourage the uptake of other vacant units.
11. Adjacent to the appeal property lies another adult gaming centre and the proposal would increase the presence of this type of use along this part of the street. However, the adjacent adult gaming centre has a small frontage and although the appeal property has a larger frontage it is still small.
12. The proposal would result in a duplication of uses within the centre. However, the same can be said for other duplicated uses and this in itself does not

equate to harm. Whilst it would increase the number of adult gaming centres, either individually or cumulatively with the adjacent property, such uses would still be a small proportion of the overall offering in the area. Moreover, whilst its appearance from the street would differ to a retail shop, it would bring a vacant unit back into use, improving the vitality of the street.

13. Drawing the above together, I conclude that the proposal would have an acceptable effect on the vitality and viability of the centre, with particular reference to its character. The proposal would therefore comply with the requirements of Policy SR6 of the LP. Despite its age, insofar as it is relevant to this proposal, this policy is consistent with the requirements of the National Planning Policy Framework (the Framework). This stipulates, amongst other things, that decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Other Matters

14. There is no substantive evidence before me of any specific gambling problem in the locality that would be exacerbated by the proposal, particularly having regard to the previous and extant use as a betting shop.
15. I note that the police raised no objections to the proposal during the application. Whilst there are residential flats within the street, this is a busy part of the centre where noise and activity during the evening and at night would be expected. I do not therefore consider that the proposal would give rise to an unacceptable level of noise and disturbance.
16. The appeal site is located within the Town Centre Conservation Area (CA). As such, I have had regard to the special duty placed on decision makers in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I note that the Council consider the proposal would not harm the character and appearance of the CA and I have no reason to disagree. The proposal would bring the property back into a functional use improving the appearance of the unit's frontage to the benefit of the CA.
17. The proposal would make a small contribution to the local economy. The absence of harm in relation to other considerations identified by the Council weigh neither for nor against the proposal.
18. Concerns regarding the timing of the application are not issues that I can assess as part of this appeal and do not affect the planning merits of the proposal before me.

Conditions

19. In addition to the standard implementation condition it is necessary in the interests of precision, to define the plans with which the scheme should accord. Conditions concerning the unit's frontage, use and sound proofing are necessary in the interests of the character and amenity of the area. Where necessary, and in the interests of clarity and precision, I have altered the Council's suggested conditions.
20. Although the adjacent unit has shorter operating hours, I do not have the full details and circumstances before me that led to these hours being conditioned. In my view, given the proposed sound proofing, its town centre location and

scale, it is not necessary to restrict the hours of operation as suggested by the Council.

Conclusion

21. To conclude, the proposal would have an acceptable effect on the vitality and viability of the centre, with particular reference to its character. It would accord with the development plan and Framework when read as a whole.
22. For the reasons set out above, and having regard to all other matters raised, the appeal is allowed subject to conditions.

Robert Walker

INSPECTOR