



Appeal Decision

Site visit made on 24 November 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2020

Appeal Ref: APP/B0230/W/20/3256275

Ground floor, 10-12 Chapel Street, Luton LU1 2SE

- 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 East Kent Leasing Ltd against the decision of Luton Council.
 - The application Ref 20/00398/COU, dated 26 March 2020, was refused by notice dated 19 May 2020.
 - The development proposed is change of use from betting office (sui generis) to amusement centre (adult gaming centre) (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from betting office (sui generis) to amusement centre (adult gaming centre) (sui generis) at Ground floor, 10-12 Chapel Street, Luton LU1 2SE in accordance with the terms of the application, Ref 20/00398/COU dated 26 March 2020 subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by East Kent Leasing Ltd against Luton Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposed development upon the vitality and viability of Luton town centre.

Reasons

4. The appeal site comprises a property located within Luton town centre that is vacant at ground floor. The premises was last occupied as a betting shop. Chapel Street has a mix of uses along it, albeit dominated by hot food uses including late night businesses.
5. Luton is a typical town centre with a main indoor shopping centre, pedestrianised high street and off shoot streets containing a mix of retail and other uses. During my visit I observed a small number of betting shops and an amusement centre along the pedestrianised section of the town centre and no obvious proliferation of such uses.
6. Amusement centres and betting shops, for that matter, are an established part of high streets and shopping centres across the country and complement their retail function. There are no other amusement centres along Chapel Street. The

betting shops and amusement centre are located on George Street. Due to the low total number of such uses and the presence of intervening uses, gambling facilities do not dominate the centre as a whole. Nor would the proposed use result in a cluster or concentration of such uses in the area. I am also mindful that the previous use of the premises was a betting shop therefore there would be no overall increase in the total number of such uses.

7. The appellant has provided information undertaken at various premises around the country which indicates that some customers link visits to amusement centres with shopping trips or work. Whilst this survey is limited in scope, it has not been challenged by the Council and notwithstanding their comments there is no substantive evidence to indicate that customers to the premises would not visit other shops and facilities in the town centre thereby contributing towards its vitality and viability.
8. The use of the amusement centre would be restricted to people over a certain age. However, there is no substantive evidence that this would have a harmful material effect on visitors to the town centre or social cohesion, particularly when considering the previous use.
9. The Council contend that the proposed development would necessitate a requirement for security personnel, although there is no evidence before me to support this. In any event the presence of security personnel at the entrance to pubs, bars, shopping centres and high street retailers is a common feature of many town centres. In my judgement this would not give rise to an impression of a nuisance or unsafe use. Moreover, I am not aware of any objection from the local police force.
10. The Council contend that the town centre is at a critical stage of its regeneration. However, there is no substantive evidence before me to support this. Nor did I observe obvious signs of regeneration activity on the ground during my site visit. I therefore afford this limited weight in coming to my decision.
11. I note that no evidence has been provided demonstrating why alternative uses could not occupy the premises. However, I find that with specific regard to this appeal there is no planning policy requirement to do so. I have therefore given this matter negligible weight in coming to my decision.
12. As such, the proposed development would not undermine the vitality and viability of Luton town centre. As such it would accord with Policies LLP1, LLP3 and LLP25 of the Luton Local Plan (2016) which, amongst other things, require all new development to preserve or improve the character of the area; town centre proposals to contribute towards job creation, contribute to the achievement of a mixed area which is vibrant and active and enhance the distinctiveness and character of the area by responding positively to townscape.
13. It would also accord with the National Planning Policy Framework at paragraphs 85 and 127, which amongst other things, seek to promote the growth and diversification of town centres to allow them to grow and diversify in a way that can respond to rapid change in the retail and leisure industries and allows a suitable mix of uses, and create places where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Conditions

14. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
15. The appellant has submitted a sound insulation assessment with regard to comments made by the Council's Environmental Health Officer in relation to noise transmission through the building. Whilst the Council have not commented on its contents, I am satisfied that the details are satisfactory and thus it is not necessary to impose the condition.
16. The Council has suggested a condition preventing external alterations to the appearance of the building. However, such alterations would require separate permission and do not form part of the scheme before me. Therefore, it is not necessary to impose such a condition.
17. The Council have suggested a condition limiting the opening hours of the premises to 0900 to 2300 Mondays to Saturdays and 1000 to 2200 Sundays and Bank Holidays. However, the nature of the use is unlikely to result in undue noise and disturbance from comings and goings and given its town centre location and the presence of late night and 24 hour uses in the area I do not consider it necessary to limit the opening hours.

Conclusion

18. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of 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: Location/Block Plan and Existing and Proposed Ground Floor Plan Drawing Number 20003/001/B.