



Appeal Decision

Site visit made on 14 December 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2021

Appeal Ref: APP/X5990/W/20/3257807 43-45 Chippenham Road, London W9 2AH

- 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 Mr Tom Tasou (Chippenham Road Limited) against the decision of City of Westminster Council.
 - The application Ref 20/01811/FUL, dated 9 March 2020, was refused by notice dated 23 July 2020.
 - The development proposed is the demolition of the 2-storey rear wing, external alterations, and conversion of betting office on ground and basement floor levels to create 3 self-contained flats.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the provision of services to serve the local community.

Reasons

3. Policy SS 8 of the City of Westminster Unitary Development Plan 2007 (The UDP) states that, outside of district and local centres, the loss of 'non-A1 retail uses' to residential use will only be permitted in 'isolated shop-type units'. The supporting text of that policy indicates that the aim of the policy is to protect shops and services because of the convenience and service they provide to residents, visitors and local businesses.
4. Whilst the key terms within that policy are not defined by the policy or the supporting text, the betting office use of the premises is likely to have attracted customers and operated in a similar way to a shop or other such use in terms of being visited by customers who purchase a good or a service. The appearance of the building, with a shopfront and a public entrance, compounds my findings in this respect. The main parties agree that the use falls outside any of the specified classes of the Town and Country Planning (Use Classes) Order 1987 (as amended)(The UCO) and the appellant has identified that betting offices fall outside Class E of The UCO. However, these classifications do not lead me to conclude that the existing use would not represent a non-A1 retail use in the context of Policy SS 8 of The UDP. Furthermore, as that policy does not specify particular shops and services that it relates to, I do not find that the policy restricts itself in such a way that it cannot apply to a betting office.

5. Adjacent to the appeal site are two properties offering services to visiting members of the public and further such properties exist at the opposite side of Elgin Avenue. Accordingly, whilst the appellant has identified that a number of those properties are vacant and have been the subject of recent prior approval applications that involve their potential change of use, I do not find the shop-type unit at the appeal site to be isolated in the context of the abovementioned policy.
6. For these reasons, I find that the proposal would represent the change of use of a non-A1 retail use at a premises that is not an isolated shop-type unit. This would reduce the range of services available to the community within the immediate vicinity of the appeal site and would, therefore, be contrary to the abovementioned policy. Although the appellant is of the view that a betting office is not a 'local service' I am not aware of any reasoning why it should not be considered as such. In this regard, the supporting text of Policy SS 8 indicates that some of the shops and services it seeks to protect are 'key local convenience shops' but does not indicate that the policy only addresses uses falling within that category.
7. Policy SS8 of The UDP does not address the retention of shopfronts or an active frontage and as such, whilst the Council has objected to the creation of a 'dead frontage' this is not, in itself, contrary to that policy. In this regard, the appellant has identified that the current vacancy of the premises and the window displays prevented the betting office use from making more than a minimal contribution to the vitality of the parade that the appeal site is at the edge of. However, the evidence before me is not conclusive in terms of demonstrating that the site could not host a use that would contribute to the viability of the parade. The existing vacancy does not, therefore, alter my assessment of the proposal. Similarly, the evidence before me is not compelling in terms of demonstrating that online services have made betting offices redundant or that other shops which are within walking distance of the appeal site provide a comparable service.
8. The appellant has identified that prior approval¹ has been granted in respect of the change of use of part of the ground floor of the premises and the basement to residential use. The appellant states that the intention would be to undertake that development if this appeal were not successful and I have no basis to conclude that this would not be the case. As such, it is a fallback position that I consider to be relevant to my assessment. However, that development would not cause the total loss of the betting office at the appeal site. Therefore, the effect on the provision of services to serve the local community would not be comparable.
9. For the reasons given above, the proposal would have an unacceptable effect on the provision of services to serve the local community. Consequently, the proposal would be contrary to Policy SS 8 of The UDP, the aims of which are set out above. The proposal would also be contrary to the National Planning Policy Framework (The Framework) which identifies that having accessible services is part of supporting a strong, vibrant and healthy community and requires decisions to plan positively for the provision of community facilities and local services.

Planning Balance and Conclusion

10. The appellant's submissions identify that the proposal would represent a boost to the supply of housing which accords with Policy H3 of The UDP and enable the disused part of the basement to be put to use. The Framework also seeks to support the Government's objective of significantly boosting the supply of homes and making effective use of previously developed land. However, it also seeks to support strong, vibrant and healthy communities as set out above. As such, whilst

¹ 19/09568/P3JPA

I afford substantial weight to the abovementioned benefits arising from the proposal, I do not find that this outweighs the harm caused by the conflict with the development plan.

11. Although the proposal has been supported by some local residents who suggest that the proposed residential use would be compatible with the other residential uses of the area and enable the removal of a use that they associate with anti-social behaviour, I have limited evidence before me that the existing use caused harm in either of these respects and, as such, I only afford this aspect of the proposal a little weight. Consequently, this does not outweigh the harm identified above.
12. For the reason given above, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR