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## Appeal Decision

Site visit made on 15 March 2021

**by T J Burnham BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9<sup>th</sup> April 2021**

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**Appeal Ref: APP/V5570/W/20/3257308**

**Steel House, 258 Seven Sisters Road, Islington, London N4 2HY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Idris against the Council of the London Borough of Islington.
  - The application Ref P2020/0096/FUL is dated 4 January 2020.
  - The development proposed is change of use from a vacant parcels office to an adult gaming centre.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. Although I have been supplied with a copy of a decision notice relating to the original application by the Council, made beyond the relevant statutory period, the appellant claims that they never received it.
3. In any event, this notice, the officer report, and the appeal statement set out the Council's objections which form the matters of disagreement with the appellant. They form the broad basis of the main issues that I have identified in dealing with this as a failure to give notice case.

### Main Issues

4. The main issues are the effect of the proposal on the vitality and viability of the Town Centre and whether the proposal would assist in achieving a healthy, inclusive, and safe place.

### Reasons

5. The appeal site is the ground floor unit at Steel House, which sits adjacent to Finsbury Park Station within the primary frontage of the Finsbury Park Town Centre. There is nothing within the evidence to suggest that the lawful use of the premises is anything other than A1 retail. The unit was open and in retail use at the time of my site visit, being occupied by the 'International Supermarket'.
6. The Islington Local Plan Development Management Policies (2013) (DMP) makes it clear at paragraph 4.30 that to assist in promoting vibrant and attractive Town Centres it is important that a critical mass of retailing uses is

maintained within their core shopping areas, to maintain the vitality and viability of the Town Centres.

7. Policy DM4.5 of the DMP seeks to protect A1 retail uses within the primary frontages. Amongst other criteria it states that existing ground floor retail units will be protected from change of use unless the premises has been vacant for a continuous period of at least 2 years and continuous marketing evidence for this 2 year vacancy is provided which demonstrates that there is no realistic prospect of the unit being used in its current use in the foreseeable future.
8. No marketing details are available within the evidence and it is not clear whether the premises have previously been vacant for the period of time identified within the policy. In any event, I observed that at the time of my visit that the premises were in retail use. The proposal would therefore fail to accord with Policy DM4.5 of the DMP. Allowing the change of use to an Adult Gaming Centre (AGC) would clearly open up the potential for the loss of an existing retail unit, which would be to the detriment of the underlying function, vitality, and viability of the Finsbury Park Town Centre contrary to the requirements of Policies DM4.4 and DM4.3 of the DMP.
9. The Islington Retail and Leisure Study<sup>1</sup> states that The Finsbury Park ward is the most deprived area in Islington Borough and that Finsbury Park is one of the most deprived areas in the Country. SPD<sup>2</sup> guidance indicates that Finsbury Park's Town Centre, is in urgent need of regeneration to reduce poverty and social inequality.
10. The Local Plan Topic Paper<sup>3</sup>, forms up to date evidence for the emerging Islington Local Plan and should be afforded weight. It indicates that those living in deprived areas are more vulnerable to gambling related harm and for this and other reasons seeks to avoid the clustering of AGC's and betting shops. I observed on my site visit that betting shops operated by William Hill and Paddypower are already located closely to the south west and north east.
11. I acknowledge that other opportunities to gamble are available for example on-line and that gambling is also regulated via other legislation. However, I consider that the introduction of an AGC at the appeal site would result in an unacceptable concentration of gambling related uses in close proximity to one another. They would be concentrated in an area where the population is more susceptible to gambling related harm as a result of the previously noted issues surrounding deprivation.
12. The proposal would subsequently fail to accord with Policy DM4.3 of the DMP which amongst other things states that proposals for betting shops, amusement centres and other similar uses (which I consider would include an AGC) will be resisted where they would result in negative cumulative impacts due to an unacceptable concentration of such uses in one area.
13. The proposal would also fail to accord with the objectives, outlined in paragraph 91 of the National Planning Policy Framework, to achieve healthy, inclusive, and safe places which enable and support healthy lifestyles.

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<sup>1</sup> London Borough of Islington Retail and Leisure Study – 2017 – Carter Jonas.

<sup>2</sup> Finsbury Park Town Centre Supplementary Planning Document June 2014.

<sup>3</sup> Islington Local Plan Topic Paper – Retail, Leisure and Services, Culture and Visitor Accommodation February 2020.

## **Other Matters**

14. I have no concerns regarding the alterations proposed to the shop front and whilst I acknowledge the accessible location of the site, this is a characteristic which is shared with many other parts of London. I note that there have been no objections from neighbouring authorities in Hackney or Haringey. The crime prevention officer has not raised concerns from a security perspective. However, these are broadly neutral matters.
15. Changes were made to the use class order following the submission of the planning application. The appeal must however be determined by reference to the use classes in place at the time of the application.
16. I must also afford substantial weight to the evidenced based approach within the DMP to retail which is tailored to the unique needs of the area. Critically, while the changes to the use class order open up the potential for more non-retail use, they have not resulted in the acquisition of permitted development rights for the development proposed and there is not therefore a fallback position for the use proposed. In any event, as I observed on my site visit, the premises are currently in retail use. I therefore afford this matter limited weight.

## **Conclusion**

17. The proposal would have a detrimental impact on the vitality and viability of the Town Centre and it would fail to assist in achieving a healthy, inclusive, and safe place within an area of deprivation that is susceptible to gambling related harm. I have afforded these matters significant weight. There is nothing to indicate that the decision should be made otherwise than in accordance with the development plan. The appeal should therefore be dismissed.

*T J Burnham*

INSPECTOR