



Appeal Decision

Site Visit made on 28 September 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2021

Appeal Ref: APP/T5150/W/21/3269557

5-6 Park Parade, Harlesden, London NW10 4JH

- 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 Silvertime Amusements Ltd against the decision of London Borough of Brent.
 - The application Ref 20/3169, dated 3 October 2020, was refused by notice dated 18 January 2021.
 - The development proposed is described as “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 dismissed.

Preliminary Matters

2. Since the submission of the appellant’s appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I have sought the views of the main parties in writing and comments received have been taken into consideration.
3. The Council’s decision notice refers to policies of the emerging Brent Local Plan. This emerging Local Plan has not been adopted yet therefore my assessment of this appeal is based on the relevant statutory development plan policies.

Main Issues

4. The main issues are the effect of the proposal on the vitality and viability of Harlesden Town Centre; the effect of the proposal on the surrounding area in terms of noise, disturbance, crime and anti-social behaviour; and whether there is sufficient information with regards to external alterations.

Reasons

Vitality and viability

5. Policy DMP3 of the London Borough of Brent Local Plan Development Management Policies 2016 (BLP) relates to proposals for non-retail uses, in particular betting shops, adult gaming centres (AGC) and pawnbrokers. This policy identifies that AGC, under bullet point two, will be permitted where it will result in no more than 3% of the town centre frontage consisting of AGC or pawnbrokers/payday loan shops (PPLS). I have had regard to the exact wording of Policy DMP3 including the use of the word “or” within bullet point two, as well as the supporting explanatory text. Given how the policy uses

bullet points for particular matters, I am satisfied that the 3% in bullet point two refers to a calculation of both AGC and PPLSs.

6. The Council's calculations and updated survey concludes that the concentration of AGCs and PPLSs including the proposal would exceed 3% within the area. Some of the units which make up the 3% figure have been described as being empty units. These empty units are within AGC or PPLS uses and as there is no substantial evidence to suggest these units are to be converted into alternative uses then it is correct that they are included within the calculations.
7. I have had regard to the appellants statement of cases which include disputes over the calculations of the frontages such as whether entrances to flats to upper floors should be deducted and reference to plans of 53 High Street and 10 Bank Buildings. The Council's survey under paragraph 19 of their statement of case provides a clear break down of the relevant uses, addresses, frontage measurements and distance to the appeal site with the associated calculations and resulting figure of 3.34%. From the evidence submitted, I am satisfied that the proposal would result in more than 3% of the frontages consisting of AGC or PPLSs and therefore the proposal would be contrary to Policy DMP3.
8. My attention has been brought to a number of planning applications and appeal decisions and also customer inflow and profile surveys. However, I do not consider that these have a comprehensively direct link with the appeal scheme particularly with regards to location and relevant development plan policies. The appellant further indicates the Council and other appeal decisions have interpreted Policy DMP3 differently in previous decisions. From the examples provided though it does not appear to me that there was a critical dispute in terms of bullet point two of Policy DMP3 which is the crux of the matter in this appeal.
9. Whilst the appellant states that there's no logic for linking the provision of AGC with pay day loans establishments and they have nothing in common in terms of their clientele, characteristics, service provided or effects. Both these uses do fall within the non-retail category. Given the proposal would exceed the 3% stated in Policy DMP3, the proposal would lead to an over-concentration of these uses and thus adversely affect the vitality and viability of Harlesden Town Centre.
10. Accordingly, the proposal would have a harmful effect on the vitality and viability of Harlesden Town Centre. The proposal would be contrary to Policy DMP3 of the BLP which seeks to ensure that there is not an over-concentration of particular uses within any single length of frontage.

Surrounding area

11. The proposal would be in close proximity to residential properties, mainly upper floor flats. It has been indicated that the proposal would operate 24 hours a day which would lead to comings and goings at times which are late at night or early in the morning. Customer movements during hours when noise levels are usually low would be prominent and much more noticeable which would result in occupiers of surrounding properties being unduly disturbed.
12. It is claimed that there are other uses in the area, including betting offices, which are noisier and more obtrusive than the proposal. However, there is insufficient evidence to support this. The proposal may have low volume of

customers nevertheless, customers leaving the premises during the night and early morning would create noise when levels are usually expected to be low. There is also little evidence before me to indicate that internal noise levels from customers, employees and other operations would not compromise the living conditions of nearby residential occupiers.

13. The proposal would have a harmful effect on the living conditions of occupiers of neighbouring residential properties in regards to noise and disturbance. The proposal would be contrary to Policy DMP1 of the BLP which seeks development to not unacceptably increase exposure to noise.
14. The Council have detailed concerns relating to crime, disorder and anti-social behaviour including comments from local residents and bodies, the Police Safer Neighbourhoods Team and the Metropolitan Police. The Harlesden area is identified as an area of high deprivation with unemployment and homelessness levels generally high. There is no unequivocal link presented to me between these matters and the proposal which would result in a single AGC leading to a harmful effect on crime, disorder and anti-social behaviour in the area.
15. The "*A Fair Deal: Betting Shops, Adult Gaming Centres and Pawnbrokers in Brent (2013), London Borough of Brent*" document and the 2010 British Gambling Prevalence Survey has been presented as well as information relating to health disorder, depression and alcohol abuse. The appellant has indicated that the Council have granted a licence for the proposed use.
16. From the evidence before me, I am not convinced that the proposal would have a harmful effect on crime, disorder and anti-social behaviour in the surrounding area.

Whether sufficient information

17. The description of development on the application form refers only to the change of use of the premises and does not include any external alterations. However, the submitted floor plans do show alterations to the appeal property including an external staircase. As there are no elevation plans of this external alteration, insufficient information has been provided to determine whether the proposal would be acceptable and in accordance with Policy DMP1 of the BLP.

Other Matters

18. The appellant has indicated that the proposal would provide a number of benefits and other matters which include creation of jobs, bringing the property back into use, contributing to evening economy, investment in the property, adding choice to the centre and in terms of number of customers being similar to and better than some Class E uses and better than a betting office. The appellant also notes that the proposal would be compliant with the London Plan.

Conclusion

19. I have found that the proposal would not have an adverse effect on crime, disorder and anti-social behaviour in the surrounding area. However, this and the other matters detailed above would not outweigh the harm I have identified with regards to vitality and viability of Harlesden Town Centre and the living conditions of occupiers of neighbouring properties with regards to noise and disturbance.

20. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.

21. Therefore, for the reasons given above, the appeal should be dismissed.

Chris Baxter

INSPECTOR