



Appeal Decision

Site visit made on 28 September 2022

by Colin Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21st October 2022

Appeal Ref: APP/E5900/W/22/3300576

450 Bethnal Green Road, Tower Hamlets, London E2 0HG

- 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 the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/00249, dated 11 February 2022, was refused by notice dated 5 April 2022.
 - The development proposed is change of use from Financial and Professional Services (Class E) to Adult Gaming Centre (Sui Generis).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the premises are a suitable location for the proposed adult gaming centre.

Reasons

3. The appeal concerns a ground floor commercial unit. It is situated between a funeral directors and a betting shop in a part of Bethnal Green Road containing a variety of shops and services. The premises were vacant at the time of my visit, with a cover across the window and a metal shutter across the door, although I understand that it was last occupied by a bank.
4. Based on its last use, the premises are currently within Use Class E¹ which covers a range of different commercial activities, including retail. A change of use to another activity within Use Class E is not development that requires planning permission. However, as the proposed adult gaming centre is classified as a Sui Generis use, permission is required in this case.
5. Of particular relevance to the appeal is Policy D.TC5 of the Local Plan². Part 4 of the policy says that new amusement centres, casinos and lap-dancing clubs will only be supported within the Central Activities Zone, Tower Hamlets Activity Areas or Canary Wharf Major Centre. The appeal premises are not located in any of the areas listed and so the proposed change of use is not supported by this policy. I note the appellant's argument that the policy does

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended).

² Tower Hamlets Local Plan 2031, adopted January 2020.

not necessarily rule out the provision of an adult gaming centre outside these defined locations. Be that as it may, it is nonetheless explicit from the wording of Policy D.TC5 that the proposed change of use would be in direct conflict with the provisions of that particular policy.

6. A number of other Local Plan policies are referenced in the appeal documents. Some of these emphasise the importance of maintaining the vitality of shopping centres and acknowledge the role that non-retail uses can play in achieving this objective. This includes Local Plan Policy S.TC1 which defines Bethnal Green Road as a District Centre and seeks development which promotes a vibrant hub containing a wide range of shops, services and employment. Policy D.TC2 aims to achieve a minimum of 60% retail in the primary frontages of District Centres, recognising the role non-retail uses may play in contributing to activity and vitality within these locations.
7. With this in mind, I recognise that the appeal premises are currently vacant and are clearly not contributing to the activity and vitality of the centre at present. The proposed adult gaming centre would bring the vacant unit back into use, thereby providing jobs and new investment. It would also help to support pedestrian footfall. As such, the proposal would offer some tangible benefits to activity and vitality within Bethnal Green Road. That said, it is not clear whether the proposal would be compatible with the aim of achieving a minimum of 60% of ground floor units as retail within the District Centre. Therefore, based on the evidence provided, I do not consider that the proposal would comply with the terms of Policy D.TC2.
8. Furthermore, similar benefits to activity and vitality within the District Centre could be achieved if the appeal premises were to remain within Use Class E. There is little before me to indicate that a Use Class E activity would be unviable in this location, or that the proposed adult gaming centre would offer clear advantages over the existing use. Taking the policies together, it seems to me that the proposal would be damaging to the Local Plan strategy to confine adult gaming centres to certain, defined areas.
9. Some aspects of the proposal would not conflict with policy. I understand that a gambling licence has been granted and the Council has identified various aspects of the development which are acceptable, including matters relating to highways, amenity and design. While Policy D.CF2 seeks to retain existing community facilities, I am not convinced that the development would necessarily lead to the loss of a community facility considering that the premises are currently empty. Similarly, as the adult gaming centre would create some jobs, I am equally unconvinced that there would be any conflict with Policy D.EMP3, which seeks to protect employment space.
10. Nonetheless, the lack of harm in these respects does not overcome the harm to the Local Plan strategy that I have identified above. Even if I were to take the view that the proposal would comply with Policies D.CF2 and D.EMP3, it would not negate the conflict with Policies D.TC5 and D.TC2.
11. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In that respect, I appreciate the appellant's point that shopping centres are under economic pressure due to the pandemic and the popularity of online shopping. However, there is little before me to indicate that the premises are currently unviable as a Class E use and so the proposal

cannot simply be justified on the basis that the unit is vacant. Evidence relating to the long-term viability of the appeal premises may be a relevant consideration were a similar proposal to be advanced in the future.

12. My attention has been drawn to a number of appeal decisions where proposals for adult gaming centres have been allowed. Many of these decisions are for proposals in different parts of the country where different development plan policies apply. As such, they are not directly comparable to the circumstances of the current case. However, I note the allowed appeal³ for an amusement centre in Roman Road, Tower Hamlets, which is based on the same Local Plan as the current appeal. Although the proposal was in conflict with Policy D.TC5, the Inspector gave weight to the fact that the site was already being used as betting office in the Sui Generis Use Class. This is not equivalent to the current appeal which involves the conversion of a vacant unit within Use Class E. As such, I do not consider that the allowed appeal establishes a convincing precedent for the current case.

Conclusion

13. I conclude that the premises are not a suitable location for the proposed adult gaming centre. The appeal is therefore dismissed.

Colin Cresswell

INSPECTOR

³ Appeal Ref: APP/E5900/W/20/3263732