



Appeal Decisions

Site visit made on 3 November 2022

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2022

Appeal A Ref: APP/V4630/W/21/3285845

12 Bradford Street, Walsall WS1 1PB

- 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 Cashino Gaming Ltd against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 21/0327, dated 22 February 2021, was refused by notice dated 16 September 2021.
 - The development proposed is for the change of use from vacant betting shop (Sui Generis) to Adult Gaming Centre (Sui Generis).
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Appeal B Ref: APP/V4630/H/21/3285839

12 Bradford Street, Walsall WS1 1PB

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Cashino Gaming Ltd against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 21/0329, dated 22 February 2021, was refused by notice dated 25 October 2021.
 - The advertisement proposed is for an illuminated fascia sign and illuminated projecting sign.
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Decision

1. Appeal A is allowed, and planning permission is granted for the proposed change of use from vacant betting shop (Sui Generis) to Adult Gaming Centre (Sui Generis) at 12 Bradford Street, Walsall WS1 1PB in accordance with the terms of the application, Ref 21/0327, dated 22 February 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan and Proposed Ground Floor Plan - drawing no. BS/WAL/05 Rev A.
 - 3) The premises shall only be open for customers between the following hours: 0800 - Midnight on Mondays to Saturdays and 09:00 - Midnight on Sundays, Bank Holidays and Public Holidays.
 - 4) The premises shall be operated at all times in compliance with the submitted Operational Management Plan, dated October 2021.
 - 5) The development hereby permitted shall be used only as an electronic bingo centre with slot machines, that are not fixed odds betting

terminals, with ancillary non-alcoholic refreshments such as teas, coffees and soft drinks, and for no other purpose at any time.

2. Appeal B is also allowed, and express consent is granted for the display of an illuminated fascia sign and illuminated projecting sign at 12 Bradford Street, Walsall WS1 1PB in accordance with the terms of the application, Ref 21/0329, dated 22 February 2021, and the plans submitted with it.
3. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional condition:
 - 1) The intensity of the illumination of the signs permitted by this consent shall be no greater than 250 candela.

Preliminary Matters

4. The Council states that the appeal site is within the Bradford Street Conservation Area. However, it is clear from the evidence that the site is actually within the Bridge Street Conservation Area, I shall consider the appeals on these terms.
5. With respect to appeal B, Paragraph 136 of the Framework states that advertisements should be subject to control only in the interests of amenity and public safety. The Council has stated that the proposed advertisements would not harm the setting or appearance of the conservation area and was refused purely on the basis that its associated change of use application was refused. I shall therefore consider this matter as an 'other consideration' in my decision.

Main Issues

6. The main issue, with respect to appeal A, is the effect of the proposed use on crime and anti-social behaviour.

Reasons

7. The appeal premises is a vacant betting shop, within a high street setting, and within a Primary Shopping Area (PSA). Policy AAPSI of the Walsall Town Centre Area Action Plan (WTCAAP) supports activity within the PSA that is well designed and would contribute positively to the streetscene. Furthermore, saved policy S9 of the Walsall Unitary Development Plan (UDP) supports amusement centres that would avoid harm by noise, or other disturbance, to sensitive uses nearby. The proposal would be in a location that would be supported by these policies, it would also bring a vacant unit back into use, create new employment opportunities and new economic vitality to the high street. Moreover, it would attract footfall numbers that would be comparable to other businesses within the shopping area.
8. The proposal would replace a betting shop with an Adult Gaming Centre (AGC). The AGC would consist of a bingo centre with slot machines and exclude fixed odds betting terminals. The Appellant's Operational Management Plan (OMP) explains how the business would function. This states that management personnel would be on site at all times, music would only be played at low levels and the entrance door will include an automatic closer system to contain noise. In terms of dispersal, it states that customers would be encouraged to leave quietly and not loiter. With respect to security measures, the Appellants

would operate a CCTV system and maintain an incident log. These measures would ensure that the premises would be operated effectively and function well.

9. Comments from the police identify that the proposed use may attract vulnerable people. The police report that the area is subject to criminal activity with 29 incidents reported in almost 18 months, up to July 2021. Nevertheless, the Police raised no objection to the proposal subject to the provision of adequate security. I am satisfied that this matter could be suitably controlled by requiring the Appellant to comply with its OMP.
10. The premises was subject to consideration for a gambling licence recently. The evidence indicates that this took into account a range of matters that seek to prevent gambling being a source of crime and disorder and to protect vulnerable people. I understand that the licence has been issued by the Council. This indicates that such matters have been deemed to be acceptable based on the location and context of the premises. Moreover, it is not for the planning system to duplicate matters covered by other legislation.
11. No clear evidence has been provided by the Council to show that the premises would be a source of crime and disorder. Furthermore, I am unconvinced that the proximity of Houses in Multiple Paying Occupation and the problem of rough sleeping in the town would have a discernible bearing on the operation of the premises. Although, some criminal activity has been recorded in the area the Council has not adequately explained how or why the proposed use would contribute or exacerbate such activity. Accordingly, I find that the premises would operate in a safe and considerate manner without leading to a material increase in crime or anti-social behaviour in the area.
12. Consequently, the proposal would accord with policies CSP4 and ENV2 of the Black Country Core Strategy, saved policies GP2 and ENV32 of the UDP and policy AAPLV5 of the WTCAAP. These seek, among other matters, for development to make a positive contribution to the environment and strengthen local character and identity.

Other Matters

13. The proposed change of use would not include any external changes to the building and its overall use would not materially differ from its lawful use. The proposed advertisement signage would consist of fascia and projecting signage with mini-trough external lighting. It would be of timber construction and be located within the zone of the existing decorative shopfront. For these reasons, the proposed use and style of advertisements would complement the character of the surrounding area.
14. The property is deemed to be a non-designated heritage asset and is within the Bridge Street Conservation Area. The significance of the conservation area seems to derive from the range of traditional high street buildings, important public open spaces and significant views through this commercial setting. The proposed signage would complement the design of the traditional shopfront. As such, the proposed use and its associated signage would preserve and enhance the character and appearance of the conservation area.

Conditions for appeal A

15. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I have taken the Council's suggested conditions into consideration and imposed most of these with some amendments and adjustments for clarity. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty. The Council sought a condition to require certain internal works to be installed. However, such measures would be unnecessary for heritage reasons or otherwise to make the proposal acceptable in planning terms.
16. Nevertheless, a condition limiting the nature of the use, to that described by the Appellant, would be necessary to define the permission and protect the living conditions of neighbouring residential occupiers. The Appellant's Noise Impact Assessment, for a separate but similar premises elsewhere, has found that late night disturbance does not generally result in high levels of noise. Nonetheless, there is insufficient evidence to show that these results can be readily applied to the appeal site. Consequently, based on the proximity of residential properties, a condition to limit the hours of use, would be required in the interests of neighbour's living conditions and to satisfy the requirements of UDP policy S9(b).
17. It is also necessary to require the Appellant to comply with the Operational management Plan (October 2021) in the interests of the living conditions of neighbouring occupiers and ensure that the premises functions well.

Conditions for appeal B

18. The Council lists 8 conditions associated with the advertisement application within its officer report. However, most of these are already applied by virtue of the Advertisement Regulations (2007). Nevertheless, it is necessary to limit the level of illumination to comply with the Institute of Lighting Engineers maximum illuminance to preserve the character of the conservation area.

Conclusion

19. For the above reasons, appeals A and B are allowed and planning permission and advertisement consent is granted.

Ben Plenty

INSPECTOR