



Appeal Decision

Site visit made on 29 November 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th December 2022

Appeal Ref: APP/A5270/W/22/3293606

152 High Street, Acton, W3 6QZ

- 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 Luxury Leisure against the decision of London Borough of Ealing.
 - The application Ref 215329FUL, dated 16 August 2021, was refused by notice dated 14 October 2021.
 - The development proposed is change of use of the ground, first and second floor from a retail unit (Class E) to an Adult Gaming Centre (sui generis) with external alterations and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of the ground, first and second floor from a retail unit (Class E) to an Adult Gaming Centre (sui generis) with external alterations and associated works at 152 High Street, Acton, W3 6QZ in accordance with the terms of the application, Ref 215329FUL, dated 16 August 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3417(B)01, 3417(B)02, 3417(B)03, 3417(C)01 (with signage details) and 3417(C)01 (without signage details).

Preliminary Matters

2. The Council's delegated report identifies conflict with Policy 4C of the Ealing Development Management Plan Development Plan Document, where the reason for refusal refers to Policy 4B of that document. I have considered both policies in determining this appeal.
3. The application form was for planning permission and advertisement consent. A separate application for advertisement consent was registered, and this appeal only addresses the application for planning permission.

Main Issue

4. The main issue is the effect of the proposed development on the vitality and viability of Acton Town Centre.

Reasons

5. The appeal property is a vacant property most recently in use for retail. I saw during my visit that Acton High Street has a low level of vacancies generally.

However, the appeal property was marketed for an extended period prior to submission of this appeal without being let.

6. Policy 4B of the Ealing Development Management Plan Development Plan Document (the DPD) states, amongst other criteria, that A1 retail uses should constitute no less than 40% of the number of units within the designated Secondary Frontage at street level, and other uses should complement and enhance the functioning of the retail area. Policy 4C further states that development must not result in overconcentration of a particular use type where this use may erode local amenity by nature of that concentration.
7. The Council identifies the relevant frontage as being the 9 units from 150-170 High Street, between the junction with Market Place and the entrance to The Oaks shopping centre. During my site visit I saw that 7 of these 9 units are, or were most recently, in Class E use. The change of use of the appeal property would still leave 6 of the 9 units in Class E use, which would satisfy the 40% requirement under Policy 4B, having regard to the revised Use Classes.
8. The Council contend that the appeal proposal would result in an overconcentration of a particular type of use, as there are other properties in *sui generis* uses in the area. However, *sui generis* addresses unique uses that do not fit in any defined Use Class, rather than being a single separate class. In considering whether an overconcentration of uses like the appeal proposal would exist, it is first necessary to consider adult gaming centres, of which only one other exists in the near area, on the opposite side of High Street. Furthermore, there would be a total of 5 premises operating as bookmakers or adult gaming centres within the 250 metre radius identified by the Council. Given the number of properties within that radius, this does not amount to an overconcentration of such uses even extending the definition to encompass bookmakers, which share similarities in character to the appeal proposal.
9. The proposed development would not therefore be harmful to the vitality and viability of Acton Town Centre, so would accord with the requirements of Policies 4B and 4C of the DPD set out above. It would also accord with Policies SD6, SD7 and E9 of the London Plan, which taken together seek to promote and enhance the vitality and viability of town centres.

Conditions

10. I have imposed conditions relating to the commencement of development and confirming the approved plans. I note that the Council has no objection to the proposed development on noise grounds given the town centre location and presence of existing late night uses even allowing for the proposed 24 hour opening. I am therefore satisfied that no condition is necessary to restrict the opening hours of the proposed use.

Conclusion

11. For the reasons set out above, the appeal succeeds.

M Chalk

INSPECTOR