



Appeal Decision

Site visit made on 11 October 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2022

Appeal Ref: APP/F5540/W/22/3292704

156 High Street, Hounslow TW3 1LR

- 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 Limited against the decision of the London Borough of Hounslow.
 - The application Ref 00610/156/P8, dated 4 November 2021, was refused by notice dated 23 December 2021.
 - The development proposed is change of use to sui generis Adult Gaming Centre.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to sui generis Adult Gaming Centre at 156 High Street, Hounslow TW3 1LR, in accordance with the terms of application, Ref 00610/156/P8, dated 4 November 2021, 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 drawing numbers: 1:1250 location plan, 21007/006/A and 21007/002.
 - 3) Details of a servicing and delivery plan, including arrangements for refuse collection shall be submitted to and approved in writing by the local planning authority before the use hereby permitted takes place.
Development shall be carried out in accordance with the approved details.

Preliminary Matter

2. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ("the UCO Amendment Regulations"), amending the Town and Country Planning (Use Classes) Order 1987 ("the UCO"), came into force on 1 September 2020. This introduced a new Commercial, Business and Service Use Class E (Class E) which, as the Explanatory Memorandum to the UCO Amendment Regulations notes, is intended to better reflect the diversity of uses found on high streets and in town centres, to provide flexibility for businesses to adapt and diversify to meet changing demands, and to support the viability of these areas now and in the future.

Main Issue

3. The main issue is the effect of the proposal on the vitality and viability of Hounslow Town Centre.

Reasons

4. The appeal site comprises a vacant ground floor unit on High Street, a commercial thoroughfare of considerable length containing a range of national retailers, high street fashion stores as well as offices, leisure and cultural uses. The previous use of the unit related to a clothes shop. The appellant is seeking permission for a change of use, to use the appeal site as an adult gaming centre (AGC) (*Sui Generis*).
5. Policy TC4 of the Hounslow Local Plan, 2015-2030 (the Local Plan) seeks to maintain and enhance the fundamental retail role of town centres, yet the policy also recognises the benefits of providing a diversity of uses. Consideration will be given to the cumulation of proposals on the vitality and vibrancy of town centres particularly avoiding the over-concentration of non-retail uses such as hot food takeaways.
6. The policy's fundamental aim of maintaining and enhancing the role of retail, however, has reduced weight following the new Class E. A unit formerly within an A1 (retail) use class now falls within Class E, and a change to another Class E use would not be an act of development requiring planning permission. While the amendments to the UCO would not permit the change of use sought by the appellant – amusement arcades remain *sui generis* – they would allow the appeal site to be used for a variety of other uses such as offices, health or medical services, or a nursery.
7. The Council's position focuses on the proposal's contribution to a harmful over-intensification of adult gaming centres in the Town Centre. The scheme would be centred on gambling and along with local betting shops would exacerbate an existing issue of over-intensification of gambling uses, which would, in the Council's view, be an anti-social use in the context of the town centre.
8. The Council has referred to approximately four AGCs in Hounslow Town Centre, one of which is located a few doors away at No 150 High Street. I observed during my site visit that these were spread around the Town Centre rather than being clustered in one area, while being absorbed amongst the general spread of services on offer locally. In terms of the Council's concerns regarding the contributory effect of betting shops, there is no information on their extent or location before me. Nonetheless the betting shops I did observe across the Town Centre amounted to a modest number that did not suggest an intensification of those premises.
9. None of the relevant policies or supporting text provides a definition of what is meant by an 'over-concentration' of uses. Moreover, there is no threshold to help define what would be an acceptable limit in terms of the number or coverage across the primary frontage. However, to my mind, this must amount to a significantly greater concentration of AGC and other similar uses, than would exist here. Given the very large number of retail units on both sides of High Street, between the proposal, the AGCs referred to and the betting shops I observed, I do not consider that these can be classified as an over-intensification of amusement centres and/or related uses.
10. The Council's contention that the proposal would, with other gambling establishments nearby be an anti-social use is not founded upon any specific evidence or effect this would have on the centre's vitality and viability. There are no crime statistics or details of disturbances or disruptive behaviour

associated with the existing gambling premises in the Town Centre. In addition, the Police did not raise any objection to the recently approved gaming licence issued to the appellant by the Council.

11. Furthermore, the gaming licence obtained for the premises is subject to several conditions, including in respect of vulnerable persons and crime prevention, such as CCTV, controlled access, trained staff, and a Gang Management Policy. The premises would be restricted to Over-18s, while no alcohol would be served or consumed.
12. Accordingly, the above factors and lack of compelling evidence do not lead me to conclude that the proposal would in combination with other gambling establishments be an anti-social use in the Town Centre. Besides, there are other regimes, including licensing and environmental protection, which provide certain additional safeguards if untoward effects might arise.
13. The proposed AGC would occupy what is currently a vacant ground floor unit and bring it back into productive use. This would have a positive effect on the town centre given that increased vacancies can have a negative effect on a centre's vitality and economic well-being. In addition, the equivalent of 8 new jobs is also proposed, while the submitted evidence indicates that visitor spending at AGCs can lead to further spending in the wider economy. These factors would combine to have a positive economic effect on the town centre.
14. I note the Council's intention to protect the dominance of retail uses although as a contribution, non-retail uses contribute to the overall success of a town centre. There is nothing before me to demonstrate that the addition of an adult gaming centre would adversely affect the retail function of the town centre.
15. No marketing information is submitted with the scheme to indicate the duration of the appeal property's vacancy or whether interest has been received from proprietors of alternative uses. However, I have not been drawn to any requirement in the Council's policies for this. This omission, despite the Council's misgivings on the matter, therefore, attracts limited weight.
16. For the above reasons, I consider that the proposal would form part of a suitable mix of uses which would be complementary to the Town Centre's retail role, and the vitality and viability of Hounslow Town Centre would not be undermined. It would accord with Policies TC1 and TC4 of the Local Plan where they require proposals to provide shops, services and facilities to meet the needs of the Borough's population without harming vitality and viability of town centres and the amenity of local residents.

Conditions

17. I have had regard to the Council's suggested conditions, amending or omitting them where necessary for clarity and to ensure compliance with the tests set out in paragraph 55 of the Framework.
18. In addition to the standard time limit condition, I have imposed a condition that lists the approved plans for reasons of precision and to ensure the development is carried out as approved.
19. In the interests of local living conditions and highway safety, I have considered it necessary that deliveries and servicing arrangements are agreed before the occupation of the gaming centre.

20. I have not included the Council's suggested condition regarding opening hours or the alternative condition for an operational management plan. The use would take place within the building, while I am satisfied that the terms of the premises licence are sufficiently wide ranging to control any unacceptable noise and disturbance at the site. Moreover, there are enforcement proceedings available to the Council if the conditions of that licence are breached.

Conclusion

21. For the reasons given, the proposal would accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be allowed subject to the conditions set out above.

RE Jones

INSPECTOR