



Appeal Decision

Site visit made on 24 January 2023

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th February 2023

Appeal Ref: APP/G5750/W/22/3299800

401A, 403 & 405 Green Street, Upton Park, London E13 9AU

- 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 Merkur Slots UK Ltd against the decision of the Council of the London Borough of Newham.
 - The application Ref 22/00561/COU, dated 7 March 2022, was refused by notice dated 3 May 2022.
 - The development proposed is extension of Adult Gaming Centre into Unit 401a (Change of Use from Class E to AGC (Sui Generis)).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the health and well-being of the local population and the vitality and viability of the town centre.

Reasons

3. Policy SP9 of the London Borough of Newham Local Plan (NLP), adopted December 2018, seeks to engender healthy, successful places by avoiding problematic cumulative impacts. As such, it requires that at least two-thirds of town centre units in leisure use are 'quality leisure uses', and that no more than one third are other 'non-quality' uses.
4. The Council considers that the proposed adult gaming centre (AGC) is not a quality leisure use. The appellants dispute this, saying that it is a smart, professionally run business that provides entertainment for the local community. However, NLP Policy SP9 states that amusement arcades are not quality leisure uses, and there is no dispute that the proposal is a type of amusement arcade. Therefore, the proposal would not amount to a quality leisure use as defined by the policy.
5. The proposal seeks to extend the appellant's existing AGC at 403 and 405 Greet Street into number 401A Green Street (No 401A). The proposal would involve the expansion of an existing AGC and so it would not change or increase the overall number of 'non-quality' leisure uses in the town centre.
6. However, NLP Policy SP9 is clear that, for its purposes, a unit is a single frontage premises in accordance with street naming and numbering. The proposal would create a single frontage unit of Nos 401A, 403 and 405, but No 401A is numbered separately from the adjoining properties and so constitutes

a unit in its own right. The proposal would therefore increase the number of leisure units that are not in quality use.

7. There are only one or two non-quality leisure uses within the terrace that includes the appeal site. The appellant's evidence is that the number of non-quality uses has fallen since 2019. Even so, this evidence also shows that there are still more than one third of leisure uses within the town centre that are not 'quality leisure' uses. As such, the concentration of these uses is already greater than the aim of NLP Policy SP9. On this basis, the increase in the number of units with a non-quality use, as proposed, would conflict with this policy.
8. The retail unit at No 401A is smaller than a standard shop unit. It includes disabled toilets and back-of-house facilities that limit the trading area. Nevertheless, the proposal would result in a not insignificant amount of additional floorspace for use for adult gaming and would intensify the existing use. I therefore see no reason to doubt that it would provide further opportunities for gaming and gambling, with the resultant effects on residents' health and well-being from such uses that NLP Policy SP9 seeks to avoid.
9. No 401A is currently a vacant retail unit and the proposal would bring the unit back into active use, introducing higher footfall than at present, as well as investment. The town centre has many units in retail use, and the Council does not object in principle to the loss of the retail unit to another leisure use. However, as I have already found, the town centre already has an excessive number of non-quality leisure uses. The change of use of an additional unit to such a use as proposed would further degrade the mix of uses and so undermine the success, vitality and viability of the town centre.
10. The proposal would therefore have a harmful effect on the health and well-being of the local population and the vitality and viability of the town centre. As such, for the reasons given above, it would be contrary to NLP Policy SP9, as well as NLP Policy SP2 which seeks to promote healthy lifestyles and reduce health inequalities, and NLP Policy INF5 which seeks to expand the quality leisure offer of Green Street Town Centre. It would also conflict with NLP Policies SP1 and SD6, which seek to promote healthy and successful town centres.
11. For the same reasons, the proposal would be contrary to Policy GG3 of the London Plan (LP), adopted March 2021, which seeks to create a healthy city, and LP policies E9 and SD6 which seek to enhance the vitality and viability of town centres and the retail sector. It would also conflict with the aim of the Framework to support the well-being of communities and the vitality of town centres.

Conclusion

12. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR