



Appeal Decision

Site visit made on 19 January 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/V5570/W/22/3304024

Unit 1, Nags Head Centre, Holloway Road, Islington, London N7 6PZ

- 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 Amuse 2016 Ltd against the decision of London Borough of Islington.
 - The application Ref P2022/0356/FUL, dated 3 February 2022, was refused by notice dated 31 May 2022.
 - The development proposed is described as "Change of Use to Bingo Lounge Club".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council have confirmed that there was a grammatical error in the decision notice with Policies DM3.3 of the Islington's Local Plan: Development Management Policies 2013 (DMP) and Policy D6 of the London Plan 2021 (LP) stated. The decision notice should have referred to Policies DM4.3 of the DMP and Policy SD6 of the LP. From the submitted evidence, I am satisfied that the main parties were aware of the relevant development plan policies and therefore no parties were unduly prejudiced.

Main Issues

3. The main issues are the effect of the proposal on (i) the viability and vitality of the Nags Head Primary Retail Frontage and Town Centre and (ii) anti-social behaviour and crime in the area.

Reasons

Viability and vitality

4. The appeal site lies within the Nags Head Primary Retail Frontage and Town Centre location. Policy DM4.5 of the DMP relates to proposals with Primary Frontages. This policy states that proposals to change the use of existing retail premises will not be permitted unless a number of criteria are satisfied. One of these criteria include that the premises has been vacant for a period of at least 2 years and continuous marketing evidence for this 2 year vacancy period is provided and demonstrates that there is no realistic prospect of the unit being used for retail purposes.
5. The premises has been actively marketed for a period in excess of 2 years via a sales board on site, website advertising and by approaching a registered interest list. The premises has not been vacant for all of this marketing period

as temporary tenants have occupied the building on reduced terms whilst marketing the premises. This was to assist with the appearance of the premises and overall shopping centre, give market confidence to current and prospective operators and making the centre more attractive to customers. A temporary tenant would also recoup some revenue whilst noting that this is not a sustainable long term business model. Whilst the lack of vacancy does not strictly accord with Policy DM4.5, I accept the appellants approach in this regard to be reasonable.

6. Appendix 11 of the DMP provides guidance on the submission of marketing evidence. In terms of active marketing, it details a number of criteria that should be submitted including that the premises has been marketed at a reasonable price, in relation to use, condition, quality and location of floorspace. The appellants Marketing Evidence Report (MER) suggests that the marketing price is £70,000 per annum (pa) as rent. There is minimal evidence to suggest however, that this £70,000pa is a reasonable figure as valuations from multiple agents have not been provided. The MER describes that valuations from other agents would not be possible due to commercial sensitivity however, it is not fully explained how commercial sensitivity would restrict the appeal premises being valued by accredited valuation agents, other than assertions from the appellant that commercial agents are unwilling and unlikely to offer a valuation service.
7. Comparative valuations for other commercial units in the area have been provided with Unit 2 Nags Head Centre identified as most relevant. The floorspace for Unit 2 is slightly lower than the appeal premises however the difference between rent is significant with little explanation as to why the appeal premises rental valuation is much higher. Figures are also detailed in market value by per square foot with comparisons also made with premises at 438 Holloway Road. There still remains a significant difference between the appeal premises and comparable premises when calculated as per square foot, with the appeal premises at a much higher valuation figure. Overall, from the evidence before me, I am not satisfied that the appeal premises has been marketed at a reasonable price.
8. I have had regard to the appellants statement of case and the MER which indicates that there were no suitable offers from retail operators and that the proposal would increase footfall and offer an affordable, modern place to relax in a safe and responsible environment. Other matters were raised such as the current economic circumstances, the Covid-19 pandemic, and online shopping. The proposed use would be sui generis and would not benefit from permitted development rights. According to the British Retail Consortium the number of town centre shops that are vacant are 1 in 7 and it is noted that the government has announced measures within the forthcoming Levelling up and Regeneration Bill to tackle vacant town centre shops, in order create opportunities for new businesses and community groups, paving the way for new jobs to boost employment, strengthening local economies and restoring local pride. These matters, however, do not alter the findings above, that the proposal has not adequately demonstrated that there is no realistic prospect of the unit being used for retail purposes.
9. There were concerns that the premises had not been marketed as a Class E use, although from the marketing submissions it seems apparent that whilst

not strictly advertising as a Class E use, the premises was marketed as a retail use.

10. From the evidence before me, I am not satisfied that the proposal has demonstrated that there is no realistic prospect of the appeal premises being used for retail purposes. The proposal would therefore be harmful to the viability and vitality of the Nags Head Primary Retail Frontage and Town Centre. The proposal would be contrary to Policies DM4.3, DM4.4 and DM4.5 of the DMP, Policy CS14 of the Islington's Core Strategy 2011 (CS), Policies E9 and SD6 of the LP and the National Planning Policy Framework (the Framework) which seeks proposals to not have a harmful effect on vitality and viability of Town Centres and maintain and enhance the retail function.

Anti-social behaviour and crime

11. The proposal is for the change of use of the premises to a bingo lounge club which the appellant affirms is not a casino, betting shop or adult gaming centre (AGC). The submitted floor plans specify a gaming area and show locations where slot machines would be situated. Whilst the proposal is described as a social investment with participation from customers and the organisation of social gatherings to help foster a community spirit and welcoming atmosphere, ultimately the proposal would provide a facility where gambling can take place, particularly with regards to the bingo element and the slot machines.
12. The Council state that an up to date retail survey shows that the current concentration of betting shops and AGCs in the area is around 2.15%. The proposal would introduce another gambling facility that when added to the betting shops and AGCs would create a concentration of these type of gambling premises of approximately 2.46%. The Council considers this figure to be an overconcentration of these type of premises in this location.
13. A Health Impact Assessment has been submitted which includes a Public Health Profile (PHP) of the local area around the appeal site. This PHP details information on population, age structure, education, employment, deprivation, health and gambling. The PHP identifies the area as being within the 10% most deprived neighbourhood in the country in the 'Crime', 'Living Environment Deprivation' and 'Deprivation Affecting Older People Index' domains, and also within the 20% most deprived neighbourhoods in the 'Barriers to Housing and Services' and 'Income Deprivation Affecting Children' domains.
14. Appendix 3 of the Islington's Retail, Leisure and Services, Culture and Visitor Accommodation Topic Paper (the Paper) identifies links between gambling and harm to health and well-being including involvement in crime. Whilst appendix 3 of the Paper is titled betting shops and AGCs, its content refers to gambling in the general sense and therefore given the proposal would be a premises where gambling is undertaken, I consider the information in appendix 3 to be relevant. The area is identified as being in the 10% most deprived neighbourhoods, including in the crime domain. There are identified links between gambling and crime as well as health and well-being, and the proposal would further add to an overconcentration of gambling premises in the area. On this basis, the proposal would have an adverse effect on the surrounding area in terms of crime and anti-social behaviour.
15. An Operation Management Plan has been submitted which sets out measures and procedures that would be in place to act as a safe means to manage the

site. GambleAware signage would be in place at the premises, a Think 25 proof of age ID scheme would be operated and notices displayed at the entrance stating consumption of alcohol outside the premises shall be forbidden. A dispersal policy would be in operation, along with the installation of CCTV and staff would be trained and updated annually, together with ongoing liaison with the shopping centre operators and neighbours. These measures however, would not be sufficient to outweigh the harm identified above from the proposal adding further to the overconcentration of gambling premises in the area.

16. It is indicated that the proposal would introduce a night-time leisure use that would increase pedestrian movement and have a welcoming presence in the area. There are no other bingo halls in the area and the appeal site is described as being well away from schools and sensitive community facilities. These matters do not alter my findings above and the harmful effect the proposal would have in terms of crime and anti-social behaviour.
17. Attention has been drawn to appeal decision ref: APP/V5570/W/22/3294654. Insufficient information has been provided on this appeal case and I cannot be sure that this is directly comparable to the proposal subject of this appeal, particularly with regards to location and the submitted evidence. In any case, I have determined this appeal on its own merits.
18. Accordingly, the proposal would have a harmful effect on the surrounding area in terms of crime and anti-social behaviour. The proposal would not accord with Policies DM4.3, DM4.4 and DM4.5 of the DMP which seeks proposals that result in negative cumulative impacts due to unacceptable concentration of uses to be resisted and promote a vibrant and attractive place and not have a harmful effect on the character of the Town Centre.
19. The appellant considers that the proposal would be supported by some development plan policies, including Policy CS3 of the CS and DM4.2 of the DMP. Nevertheless, this does not alter my findings and the conflict with the development plan policies as described above.

Other Matters

20. There is significant refurbishment and investment gone into the appeal property and the proposal would provide employment opportunities, thus having economic benefits. Industry research by Ernest Young has found changes in patterns of usage have affected the opportunities for the traditional bingo community to play together, referring to matters such as online gaming and closure of large bingo halls. The appellant describes that the proposal would help reverse that trend whilst generating significant additional footfall to the town centre with the benefit of additional consumer spending within the town centre shops and services, to the wider benefit of the local economy. Given the size of the proposed premises, I would attribute modest weight to these benefits.

Conclusion

21. The benefits described above would not outweigh the significant harm I have identified with regards to the vitality and viability of the area and crime and anti-social behaviour.

22. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
23. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR