



Appeal Decision

Site visit made on 23 October 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2024

Appeal Ref: APP/E5330/W/24/3346438

111 Eltham High Street, Eltham, Greenwich, SE9 1TD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Merkur Slots Ltd (UK) against the Council of the Royal Borough of Greenwich.
 - The application Ref is 24/0589/F.
 - The development proposed is change of use of 111 High Street from a vacant Class E unit to an Adult Gaming Centre (AGC) (Sui Generis) (SG).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a vacant Class E unit to an Adult Gaming Centre (Sui Generis) at 111 Eltham High Street, Eltham, Greenwich, SE9 1TD, in accordance with the terms of the application, Ref 24/0589/F, 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 drawing no. 889-PL-101 proposed ground floor and first floor plans, the site location plan and site plan submitted with the application, and the Merkur Slots Secured by Design Measures submitted with the appeal.
 - 3) The development hereby permitted shall be carried out in accordance with the recommendations and operational management plan set out in the noise assessment report by Archo Consulting, dated 22 January 2024, which was submitted with the application.

Preliminary Matters

2. The appeal is against the failure of the Council to give notice of a decision within the prescribed period. The Council's appeal statement confirms that although the application was referred to its planning committee with a recommendation of approval, members of the committee resolved that had they determined the application, planning permission would have been refused on the grounds that the over concentration of betting shops and other associated gambling establishments would lead to an unacceptable impact on the amenity of Eltham Town Centre and lead to an unacceptable increase in anti-social behaviour.

Main Issues

3. The main issues are whether the proposal would result in an over-concentration of gambling establishments in the area and the effect of the proposed use on the amenity of the town centre with particular regard to anti-social behaviour.

Reasons

4. The appeal site is identified by the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (2014) (the RGLP) as forming part of the designated Eltham Town Centre and as being within a Primary Shopping Frontage. The property, which was last used as a bank rather than a shop, has been vacant for approximately two years and currently has a negative effect on the appearance of the area.
5. The proposal would bring the empty unit back into a main town centre use as defined by Annex 2 of the National Planning Policy Framework (the Framework). The new use would operate on a 24-hour basis and would create 12 full time jobs. Staff and customers of the new use are likely to visit other shops and services whilst in the town centre, supporting those businesses.
6. Policy TC(b) of the RGLP refers to non-retail uses in protected shopping frontages. It states that in relation to new betting shops, consideration will be given to the number of existing betting shops in the centre and the need to avoid over-concentration and saturation of this particular type of use. An adult gaming centre (AGC) is not the same as a traditional betting shop and accordingly I do not consider this part of Policy TC(b) to be directly relevant. The proposal is however a non-retail use in a primary shopping frontage, and therefore other elements of Policy TC(b) remain relevant.
7. The proposal would serve visiting members of the public and would keep the shopping frontage active and viable. There are no proposals to alter or remove the existing shop front window. Although the use classes order has been amended since the adoption of the RGLP, the appeal site was last used as a High Street Bank, which would have fallen under use class A2. Policy TC(b) only resists the loss of occupied A1 retail units and not vacant A2 units. As there are shops on either side of the site, the proposal would not result in a break of more than two non-retail units in the primary shopping frontage. The proposal does not relate to, and the site is not adjacent to, any eating, drinking or hot-food take-away establishments, and would not result in 25% or more of the frontage being taken up by non-shopping uses.
8. My attention has been drawn to two betting shops approximately 50 metres and 120 metres from the site and another AGC approximately 70 metres away. These other similar properties are not immediately adjacent to the appeal site and make up a very small proportion of the overall town centre provisions. There is no evidence before me to indicate that these existing uses have ever caused any harm within the town centre.
9. I acknowledge that many local people would prefer to see the property reused for other purposes, particularly a high-end shop, as opposed to a betting, charity, bargain shop, salon or hot food take-away, but due to changing trends and the increase in online banking and shopping, the demand for such premises on local high streets has diminished. Furthermore, planning can only

control the use of the premises not the operator, it cannot control whether a shop is a charity shop or a boutique clothes shop. The property was marketed following the closure of the bank giving other businesses the opportunity to rent it had they been actively seeking such premises in this location.

10. Whilst the Designing Out Crime Officer refers to reports of police call outs to various Merkur Slots venues across London, I have no doubt the police are also called out to other town centre uses due to shop lifting, criminal damage, staff abuse, excessive alcohol consumption and other disruptions. Crime and anti-social behaviour are by no means limited to drinking establishments, hot food take-aways, betting shops or gaming establishments, many shops now have security staff, in addition to CCTV and other security measures. I also note the concerns relating to the safety of staff, which is an issue for all those working in public places and services, and is the responsibility of employers, rather than the planning system.
11. The Community Safety Officer has raised concerns about the age limit for customers of the AGC, noting that there are existing youth anti-social behaviour issues in the area. Given that 18 is the legal gambling age in the UK it would not be appropriate to impose a higher age limit condition, which would be very difficult for the local authority to enforce. Furthermore, young people tend to gather in active town centres regardless of the presence of betting shops and AGCs. These are after-all the focus of shops, cafes and leisure activities and their purpose is to attract people to them and to provide social activity and meeting places.
12. I therefore conclude that the development would not result in an over concentration of betting shops, adult gaming centres or similar uses within the town centre, and as such would not detract from its general amenity or its vitality and viability. On the contrary, the reuse of an empty unit with a main town centre leisure use would make a positive contribution to the varied role of the High Street. There is also no substantive evidence before me that the proposed use would increase the likelihood of anti-social behaviour in the area.
13. The proposal would therefore accord with Policies SD6 and HC6 of the London Plan, which support a vibrant daytime, evening and nighttime economy, whilst having regard to the cumulative impact of high concentrations of licensed premises on anti-social behaviour, and with Policies DH1, TC(b) and CH1 of the RGLP, which seek amongst other things to ensure the design of new development contributes to a safe and secure environment for users and the public, that non-retail uses do not increase the likelihood of anti-social behaviour or increase the fear of crime, and that developments consider community safety and aim to discourage crime. I also find no conflict with chapter 7 of the Framework which seeks to ensure the vitality of town centres or chapter 8, which promotes healthy and safe communities.

Other Matters

14. In addition to the matters already considered above, I have had regard to other concerns raised by interested parties. The proposal would generate no greater parking demands than any other town centre use that has previously or could in future occupy the premises. The effects of gambling on individuals and on public services is not a planning matter and is controlled, to some extent, by licencing and the law, in conjunction with the police. Planning is primarily concerned with land use and an AGC is a main town centre use.

15. No external alterations to the building are proposed and its reuse will enhance its appearance and assist in ensuring it is well maintained. Despite being open 24 hours, the use proposed is not one that is known to generate noise and disturbance. Customers tend to visit AGCs alone or in couples rather than in large groups, no alcohol is consumed on the premises, and background music is low. Given the location of the site on a busy High Street, customers talking or smoking outside of the premises would not cause a disturbance. There is no evidence to suggest that such uses have an adverse effect on adjacent businesses or that they deter investment. Vacant premises are more likely to deter visitors and investors, to harm the appearance of the area, to reduce footfall and natural surveillance in the area and to be at risk of criminal damage.

Conditions

16. Conditions setting out the time limit for commencement of the development and listing the approved drawings and documents that the development must accord with, are necessary to provide certainty. As the permitted use is set out in the description of development and is sui generis, a condition is not necessary to restrict this. The type of machines used in the centre will be controlled by licensing and is not a planning matter.

Conclusion

17. For the reasons given above the appeal is allowed.

R Bartlett

INSPECTOR