



Appeal Decision

Site visit made on 6 November 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/N5090/W/24/3346024

226 Station Road, The Hale, Edgware, Barnet HA8 7AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Luxury Leisure against the decision of Barnet London Borough Council.
 - The application Ref is 24/0739/FUL.
 - The development proposed is change of use of the ground floor from a retail unit (Class E) to an Adult Gaming Centre (Sui Generis) with associated storage and staff area, 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 floor from a retail unit (Class E) to an Adult Gaming Centre (Sui Generis) with associated storage and staff area, external alterations and associated works at 226 Station Road, The Hale, Edgware, Barnet HA8 7AU in accordance with the terms of the application, Ref 24/0739/FUL, subject to the conditions in the attached schedule.

Preliminary Matter

2. Since the application was determined, the Council has received the Inspector's report following the examination of the draft Barnet Local Plan 2021 to 2036 (BLP) which states that, subject to the recommended main modifications, the BLP is legally sound. Given its very advanced stage, it is unlikely that the policies in the BLP would change prior to its adoption. The BLP therefore carries considerable weight. I have referred to the relevant emerging policies in this decision, alongside the policies in the statutory development plan.

Main Issues

3. The main issues are:
 - whether the proposal would lead to an over-concentration of similar uses, and its effect on the vitality and viability of Edgware town centre;
 - whether the development would increase opportunities for crime and antisocial behaviour (ASB);
 - the effect of the proposal on the living conditions of the occupants of nearby properties, with particular regard to noise; and
 - whether the location of the development would be suitable, with consideration to the health and wellbeing of the local community.

Reasons

Over-concentration and effect on town centre

4. 226 Station Road is located on a primary frontage in Edgware town centre. It comprises a commercial unit on the ground floor, which was vacant at the time of my site visit, and residential uses above. A wide range of main town centre uses exist along the street.
5. Policy DM11 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) seeks to avoid the over-concentration of uses which detract from the retail function of the town centre. Specifically, it resists the loss of retail units on primary frontages, unless it can be demonstrated that the site has been marketed effectively for an appropriate alternative use. However, due to the provisions of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (UCO), and the introduction of Class E, the appeal property could support a range of main town centre uses.
6. It is common ground that the proposed use falls outside of Class E of the UCO. However, as a leisure and entertainment venue, the Adult Gaming Centre (AGC) would nonetheless have the character of a main town centre use as defined by the National Planning Policy Framework (the Framework). Moreover, the unit has been vacant since July 2020, and evidence from a Chartered Surveyor shows there has been very limited interest in the appeal site for a retail use, and there are other vacant units in the area.
7. Whilst the Council has expressed concerns about the conclusions of the Chartered Surveyor, there is no persuasive evidence before me to indicate I should doubt its credibility. Consequently, it is reasonably unlikely that the appeal property would be occupied by a retailer, or an alternative Class E development, in the foreseeable future.
8. Policy DM11 of the DMP does not define 'over concentration'. However, it is relevant that the modified version of emerging policy TOW03 of the BLP provides support for AGCs, provided they are separated from other AGCs, betting shops, amusement arcades, pawnbrokers, payday loan shops, shisha bars, and hot-food takeaways by at least two units.
9. My attention has been drawn to 3 betting shops on Station Road, which I observed on my site visit. Planning permission has also been granted at appeal for the change of use to an AGC at 214 Station Road¹. Taken together with the permitted AGC at No 214, the proposal would lead to a proportional increase in AGCs in this part of Barnet. However, all of the developments to which I have been referred are at least two units away from the appeal site and, cumulatively, amount to a modest proportion of the diverse mix of uses on Station Road. Consequently, the proposal would not lead to a harmful over-concentration of AGCs, so as to cause harm to the vitality and viability of the town centre.
10. I acknowledge that inward-facing frontages could create a lack of vibrancy in the street. However, given that the appeal property has been vacant for some time, there would be some benefit to street activity in bringing it back into an active use. Furthermore, it would be reasonable to control the frontage of the

¹ Appeal Decision Ref. APP/N5090/W/23/3328090, dated 12 June 2024.

property through condition, to ensure that a sufficient degree of visual permeability is maintained between the premises and the street. This would address the concerns expressed about the loss of an active frontage.

11. Overall, the proposed development would not lead to an over-concentration of similar uses, and it would not cause harm to the vitality and viability of Edgware town centre. It follows that, in respect of this main issue, there would be no conflict with Policy SD6 of The London Plan (March 2021), Policy CS6 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (CS), Policies DM01 and DM11 of the DMP, and emerging Policies TOW03 and TOW04 of the BLP, which taken together seek to promote vibrant streets and town centres through encouraging a diverse range of appropriate uses, including those that preserve or enhance the night-time economy.

Crime and ASB

12. There is a well-established night-time economy on Station Road, with many existing premises operating late into the evening. However, other than a small supermarket, I have not been directed to any facilities that are open for 24 hours. Therefore, there are inevitably fewer people in the area overnight, when most businesses are closed.
13. The evidence indicates that Station Road is a high crime area, and the proposed 24-hour operating period, which is uncharacteristic in this locality, would attract visitors to the area at a time when there is limited natural surveillance due to darkness and the low footfall. The Metropolitan Police Service has identified that these conditions create the opportunity for crime and ASB.
14. Although the proposed development was originally proposed to operate for 24 hours, the appellant has suggested the opening hours could be reduced through a condition to align with those on the planning permission for the AGC at No 214. By closing at 0200hrs each day, the development would not operate beyond the opening hours of other permitted facilities in the locality. This would ensure that the proposed development would not exacerbate the levels of crime and ASB by operating at times when there is limited human activity. Moreover, a condition requiring that the premises meets the standard required for a Secured by Design accreditation would ensure that the development is safe for its future users.
15. Overall, I conclude that the development would not increase opportunities for crime and ASB. Therefore, there would be no conflict with Policies SD6 and D8 of the LonP, Policies CS6 and CS12 of the CS, Policies DM01 and DM11 of the DMP, and draft Policies TOW03 and TOW04 of the BLP. Taken together, these policies seek to ensure the night-time economy is appropriate to the area and avoids harm to its character and amenity, whilst creating safe places that tackle crime, fear of crime, and ASB.

Living conditions

16. Due to the town centre location, the site has the character of a busy urban environment, where noise and disturbance from the comings and goings of patrons is typical. However, the level of background noise undoubtedly reduces during the early morning hours when the majority of businesses and

attractions are closed. This coincides with the times of the day when nearby residents are most likely to be sleeping.

17. Given that the opening hours could be conditioned to align with the permitted AGC at No. 214, the proposal would not significantly change the noise character of the area. Moreover, the potential for noise transfer between the AGC and adjacent units could be avoided through noise mitigation and management measures, which could be secured through condition. This would ensure that any noise and disturbance arising from the development would not be harmful to the living conditions of neighbours.
18. I conclude that the proposed development would safeguard the living conditions of the occupants of nearby residential properties, with particular regard to noise. Therefore, there would be no conflict with Policies CS6 and CS12 of the CS, Policies DM01 and DM11 of the DMP, and emerging Policies TOW03 and TOW04 of the BLP. Taken together, these policies seek to ensure the night-time economy is appropriate to the area and avoids harm to its character and the amenity.

Health and wellbeing

19. The evidence suggests that the appeal site is proximate to areas of high deprivation, and concerns have been raised about the risks to vulnerable groups through gambling related harm. It is relevant, therefore, that the Barnet Joint Health and Wellbeing Strategy 2021-2025 seeks to create healthier places and resilient communities through a variety of actions and strategies. The Framework also states that planning decisions should enable and support healthy lifestyles that address local health and wellbeing needs.
20. I have not been provided with a Health Impact Assessment (HIA) for the proposal. However, I have already concluded that the development would accord with the requirements of emerging Policy TOW03 of the BLP insofar as it would not lead to the clustering of similar uses in the area. Therefore, the proposal would be unlikely to exacerbate health inequalities due to its location and proximity to other developments.
21. I have also been provided with details of the measures that would be taken by the operator in respect of social responsibility, including player protection technology, a 'Think 25 policy', and staff training. Moreover, the evidence sets out that the health-related risks of gambling would be a matter for consideration under a separate gambling license regime. In this context, the evidence is not persuasive that a HIA is necessary to assess the effects of this specific proposal on health and wellbeing.
22. The suggested modifications to emerging Policy TOW03 of the BLP removed the original requirement for AGCs to be located over 400 metres from schools. Moreover, because the AGC would only be accessible to over 18-year-olds, it would not be used by school children. Therefore, the development would not cause harm to the safety or wellbeing of children.
23. Overall, the location of the development would be suitable, with consideration to the health and wellbeing of the local community. Therefore, there would be no conflict with Policy SD6 of the LonP, Policy CS6 of the CS, Policies DM01 and DM11 of the LP, and emerging Policy TOW03 of the BLP insofar as they

seek to address health inequalities and create safe and healthy places that do not harm amenity.

Other Matters

24. The site is highly accessible by public transport, and there is no substantive evidence to indicate the facility would generate a higher number of vehicle movements than previous uses of the site. Therefore, no harm would arise in respects of highway safety, parking, and traffic flow.

Conditions

25. The Council provided a list of suggested conditions, which I have considered against the tests in the Framework and the Planning Practice Guidance. Where appropriate, I have adjusted the wording of the conditions to improve precision and enforceability.
26. In addition to the standard time limit condition, I have attached a condition to define the permitted drawings to provide certainty.
27. The opening hours differ from those originally proposed but are necessary to ensure consistency with other developments in the area, in the interests of protecting living conditions and to avoid the increased risk of crime and ASB.
28. I have also condensed the Council's suggested noise mitigation and management measures into a single condition to prevent unnecessary duplication. This condition is necessary to safeguard the living conditions of nearby residents.
29. I have included conditions to ensure the implementation of security measures and the maintenance of an active frontage in the interests of safety, and to protect the vitality of the town centre.
30. A condition is imposed to control the external materials. This is necessary to protect the character and appearance of the area.

Conclusion

31. For the reasons given above, the appeal should be allowed.

E Catcheside

INSPECTOR

SCHEDULE OF 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: 3542(B)01, 3542(B)02, 3542(B)03, 3542(B)04, 3542(C)01
- 3) Prior to the first use of the development hereby permitted, information shall be submitted to and approved in writing by the local planning authority detailing how the development would achieve the standard required for a 'Secured by Design' accreditation, including a timetable for the implementation of the proposed measures. The measures shall thereafter be implemented in accordance with the approved details and shall remain in perpetuity thereafter.
- 4) Prior to the first use of the development hereby permitted, a Noise Mitigation and Management Plan shall be submitted to and approved in writing by the local planning authority. The plan shall include measures to be taken to protect nearby properties and the local area from noise disturbance, including a timetable for the implementation of the measures. The plan shall be implemented in accordance with the approved details and retained as such thereafter.
- 5) The premises shall only be open for customers between the following hours: 0700 to 0200 hours on Mondays to Saturdays, and 0800 to 0200 hours on Sundays and Bank and Public Holidays.
- 6) No more than 50% of the ground floor window fronting Station Road shall be painted, tinted, or otherwise obscured and no furniture, fixings or display which shall obscure intervisibility between the premises and the street shall be placed within 1 metre of the inside of the glass at any time.
- 7) The materials to be used in the external alterations to the building hereby approved shall match those shown on plan no. 3542(C)01.

END OF SCHEDULE