
Appeal Decision

Site visit made on 20 November 2024

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/V1505/W/24/3347296

17 Willowdale Centre, High Street, Wickford, Essex SS12 0RA

- 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 Done Brothers (Cash Betting) Ltd against the decision of Basildon Borough Council.
 - The application Ref is 24/00165/FULL.
 - The development proposed is change of use from E use class (charity shop) to a betting shop (sui generis use class) including alterations to shopfront.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

Main Issue

3. The main issue is the effect of the proposal on the vitality and viability of the primary shopping area in which the appeal property is located and on Wickford town centre as a whole.

Reasons

4. The appeal property is a currently vacant ground floor retail unit located within the Willowdale Centre in Wickford town centre. The Willowdale Centre is a small 1970s shopping centre on the west side of the High Street with street frontages to the High Street and Market Road. The appeal property occupies a primary frontage in a corner location with windows facing the High Street and into the Willowdale Centre. There are flats directly above the unit.
5. Policy BAS TC1 of the Basildon Local Plan Saved Policies (2007) encourages appropriate development within town centres, including retail, offices, recreational or community facilities and residential. Policy BAS SH4 concerns changes of use within primary shopping frontages, while Policy BAS BE17 requires that in

determining applications for new shop fronts, the Council will have regard to their scale, design and likely impact on the existing and adjoining premises.

6. Changes to the Use Classes Order since Policy BAS SH4 was adopted mean that the uses in the former Class A, which the policy seeks to manage, now fall within new Class E, including the current retail use of the appeal property¹. Betting shops are not within a particular use class and, therefore, are considered *sui generis*.
7. The Framework states that planning policies and decisions should support the role of town centres by taking a positive approach to their growth, management and adaptation. While betting shops are not specifically mentioned in the Framework's description of main town centre uses, leisure and entertainment uses are referred to. While I acknowledge the appellant's contention that this provides support for the appeal proposal, as well as promoting growth and diversity in centres the Framework also requires a suitable mix of uses that reflects the distinctive character of centres, to support their vitality and viability². As such, it is necessary to consider the effects of the proposal in its particular context.
8. Policy BAS SH4 says that changes of use will be allowed provided that there is no material harm to the retail function of the primary shopping frontage or the vitality and viability of the town centre. It includes a number of criteria against which proposals should be assessed.
9. The appellant draws attention to the Council's assessment of compliance of Local Plan policies with the Framework, in which it is stated that Policy BAS SH4 has largely been superseded by more recent national policy and that little weight should be given to it. This relates principally to the changes to the Use Classes Order concerning the former Class A uses and the concept of primary and secondary shopping frontages.
10. Despite these changes, Policy BAS SH4 remains part of the adopted development plan. Consequently, it is not unreasonable in my view to assess the appeal proposal against the criteria included in the policy, particularly as the policy seeks to manage changes of use of retail premises within primary shopping areas, as proposed here. I note in this regard the appellant's comment that consideration against Policy BAS SH4 is appropriate, although the approach taken by the Council is disputed.
11. With regard to the generation of visitors and pedestrian flows, the appellant provides market research which assesses the effects of betting shops within six different town centres. While the Council contends that this is not specific to Wickford, I accept that it provides comparable evidence that the proposed use is likely to generate good levels of footfall with potentially linked trips to other town centre uses.
12. The High Street and Willowdale Centre include a range of different retail and commercial premises and there is no basis to conclude that a predominance of shops would not remain within the primary shopping area as a result of the proposal.

¹ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 amend the Town and Country Planning (Use Classes) Order 1987 and came into force on 1 September 2020.

² Paragraph 90.

13. Policies BAS SH4 and BAS BE17 also require an assessment of the effect of a proposal on the appearance and character of the frontage. The existing shopfront is prominent within this part of the town centre due to its corner location and particularly the length of its frontage facing the High Street. The appellant indicates that window vinyls would not be used and that views would be available into the unit with a changing window display.
14. I note, however, that the submitted drawing of the proposed shopfront shows the right hand half of the High Street frontage completely obscured, with a similar coverage to part of the frontage to the Willowdale Centre. Combined with the frosted vinyl glass panels to the door and surrounds this would result in a substantial part of the existing retail frontage becoming inactive. As such, this would materially and harmfully change the existing character and appearance of the prominent unit through the provision of a largely inactive frontage within the primary shopping area.
15. The appellant indicates that the property was marketed for in excess of 14 months and that there was no serious interest expressed by retail operators or other parties. The GOAD map provided shows some vacancies within the Willowdale Centre and wider town centre but these could not reasonably be said to be significant in number in comparison to average levels of vacancy that might be expected in centres more generally at the present time.
16. I accept that the Council's concerns about possible continued use of the appellant's existing betting shop could be controlled through licensing regulations. I would observe, however, that in the apparent absence of another known occupier for the existing premises this would substitute one vacant unit for another, albeit not in the primary shopping area.
17. Taking these findings as a whole, the proposal would bring into use a vacant unit in which there is currently little other commercial interest. It would also retain jobs in the town centre and promote footfall in this location. Conversely, the proposal would have a harmful effect on the character of the prominent unit by introducing a largely inactive frontage. On balance, this harm and conflict with the development plan outweighs the benefits of bringing the unit back into use.
18. Accordingly, for these reasons, I conclude that the proposed change of use would have an unacceptably harmful effect on the vitality and viability of the primary shopping area in which the appeal property is located and on Wickford town centre as a whole. It is, therefore, contrary to Policies BAS SH4 and BAS BE17 of the Basildon Local Plan Saved Policies, as described.

Other Matters

19. I have had regard to the representations made by interested parties, which largely raise matters addressed under the main issue. I note and agree with the Council's assessment of other matters raised, concerning the possible effects of opening hours, which would be assessed under a separate licencing process; and that there is no evidence to suggest that anti-social behaviour would result from the proposed use.

Conclusion

20. The proposed change of use is contrary to the development plan and there are no other considerations that outweigh this conflict. Accordingly, for the reasons given, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR