



Appeal Decision

Site visit made on 7 February 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal Ref: APP/H5390/W/24/3354442

Units 25-27, West 12 Shopping Centre, Shepherd's Bush Green, London W12 8PP

- 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 Amuse 2016 Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref is 2024/01351/FUL.
 - The development proposed is Change of use from Bank to Bingo Club (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from Bank to Bingo Club (sui generis) at Units 25-27, West 12 Shopping Centre, Shepherd's Bush Green, London W12 8PP in accordance with the terms of the application, Ref 2024/01351/FUL subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council changed the site address to that shown in the banner heading above. This is an accurate description of the appeal site address, and is included within the appellant's appeal application form. I have therefore used it in this Decision.
3. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views and the revised version has been referenced in this decision.
4. Following the submission of the appellant's Statement of Case, the Council advise that they no longer wish to defend the reason for refusal in respect of the effect of the proposal on the vitality of the town centre and wellbeing of residents. I therefore do not address this matter in the reasoning below.
5. The appellant has submitted a planning obligation, dated 4 February 2025, in the form of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990, as amended. The UU commits the appellant to making financial contributions towards a controlled parking zone review, delivery and servicing monitoring and the provision of cycle parking in the vicinity of the appeal site. The Council has confirmed that it finds the UU to be acceptable.

Main Issues

6. The main issues in this appeal are the effect of the proposal on:

- the living conditions of neighbouring occupiers, with particular reference to noise, disturbance and anti-social behaviour; and
- highways impact, with particular regard to the demand on the local transport network, on-street car parking, servicing deliveries, waste storage and cycle parking.

Reasons

Living conditions

7. The appeal site is a former bank premises, located at ground floor level within a large shopping centre, with towers of residential flats located above. The site is located within Shepherd's Bush Town Centre and White City Opportunity Area and is also in close proximity to Shepherd's Bush Underground Station.
8. The proposal would operate 24 hours a day, 7 days a week. Policy TLC5 of the Hammersmith and Fulham Local Plan (2018) (Local Plan) outlines that within town centres, premises will not generally be open to customers later than 24.00 hours. However, extended opening hours may be permitted subject to specific criteria which include the proposal not causing impact on local residents, nor resulting in a cumulative impact from similar nearby activities, and there being a high level of public transport to and from the premises.
9. The appeal site is within an area with a Public Transport Accessibility Level (PTAL) score of 6b. This indicates that the appeal site has the best possible access to public transport, and therefore it is suitably located in this regard.
10. The appeal site is located within a very busy commercial area adjacent to a wide pavement and the multi-lane Shepherd's Bush Green highway, which is very heavily trafficked across the day. Immediately outside the appeal site is a traffic light controlled junction, and consequently there are notable levels of noise from interrupted traffic flows. Similarly, there is a bus stop served by 24 hour buses located adjacent to the appeal site, which contributes to the area's ambient noise through buses slowing and accelerating, and from passengers waiting at the bus stop at all hours throughout the day. The adjacent pavement is also frequently busy with pedestrians.
11. The nearest residential properties are the flats located above the shopping centre. Whilst I acknowledge the letter of objection from the local resident, it seems to me, that residents, who are living in a commercial area, might reasonably expect to experience some noise and disturbance from the nearby late opening activities.
12. The supporting text under Policy TLC5 recognises that there are certain types of licensed premises which can lead to an increase in anti-social behaviour. However, bingo halls, such as this proposal, are not identified as a particular concern. An Operational Management Plan has been submitted by the appellant. This details measures, including the presence of two staff on site at all times, and entrance doors incorporating an automatic closing system and not being fixed open at any time. In addition, no food or beverages, including alcoholic drinks are to be sold on the premises.
13. The submitted evidence, based on information from one of the appellant's other bingo clubs in a different London Borough indicates that the number of patrons in the early hours of the morning are likely to be low. Furthermore, due to the 24 hour

operational hours, there would not be a mass departure of patrons at any one time. Overall, there is no firm information to demonstrate how increased activity, associated with the proposal would lead to excessive noise and the Council's suggestion that there would be anti-social behaviour related to the premises seems to me to be little more than a general assertion.

14. The main parties have outlined nearby premises located on this stretch of Shepherd's Bush Green, including "Belushi's Sports Bar", a Wetherspoons public house and "Bagel Bite" which have a range of late-night opening hours. This demonstrates that late night commercial premises providing alcohol, food and entertainment are notable within the area. However, these premises are sufficiently sparse and spread out across Shepherd's Bush Green, which is a particularly busy commercial area, that the addition of the proposal would not result in a harmful cumulative effect on neighbouring occupiers' living conditions.
15. For these reasons, I conclude that the proposal would not cause unacceptable harm to the living conditions of neighbouring occupiers. The proposal would accord with Policies CC11, CC13 and TLC5 of the Local Plan. These require that development protects the amenities enjoyed by nearby residential occupiers including with regard to noise and activity levels.

Highway impacts

16. Given the site's excellent PTAL rating, which provides 24 hour access to public transport, the main parties consider it likely that most patrons would travel to the site using public transport. The site is located within a Controlled Parking Zone (CPZ) which operates between 9am to 8pm. Whilst patrons could drive to the premises and park within the CPZ outside of its restrictive hours, I have not been provided evidence to demonstrate that the current level of parking within surrounding streets is causing significant local parking pressure.
17. The submitted evidence indicates that the number of late-night patrons to the premises is likely to be relatively low. It therefore seems to me that the numbers of patrons seeking parking in the CPZ would be limited. On my visit, which I acknowledge is a snapshot in time, I noted that there was on street parking available to accommodate some demand for additional parking associated with the use at the appeal site. Furthermore, the shopping centre which the appeal site is located within has a car park which is accessible 24 hours daily, and which could be used by patrons. Consequently, I am satisfied that the proposal would not cause unacceptable congestion or other harm to highway safety as a result of additional on-street car parking.
18. The appellant indicates that during the operational phase of the development, deliveries and servicing would be limited. Given the limited size of the unit, the nature of the proposed use and the appeal site's previous use as a bank, which would have involved frequent deliveries, it seems to me, that there would not be a significant uplift in servicing and delivery trips to the site. As I have not found that the proposal would generate a level of trips that would impact on the local network or have an impact on any strategic routes, a Transport Assessment is not required in line with Policy T2 of the Local Plan. The submitted drawings also indicate that there would be sufficient back of house space for the storage of waste on-site.
19. Paragraph 116 of the Framework outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable

impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe. The proposal's delivery and servicing and waste storage arrangements would not have a harmful impact on highway safety.

20. In relation to cycle parking, the main parties have agreed that two short-stay cycle parking spaces can be secured through a UU offering a financial contribution for the Council to provide short stay cycle parking nearby. The submitted UU also includes an obligation to provide long-stay cycle parking within the unit. This would ensure that satisfactory levels of cycle parking are provided.
21. In conclusion the proposal would accord with Policies T2 and T3 of the Local Plan and Policies T4 and T5 of the London Plan (2021) which together require new development to provide safe and secure cycle parking, and outline that proposals will be assessed for their contribution to traffic generation and their impact on congestion.

Other Matters

22. I have considered the appellant's UU in light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and as set out in paragraph 58 of the Framework. These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to and fairly and reasonably related in scale and kind to the development.
23. Obligations are required to provide highway works for the provision of a Sheffield stand on the footway outside the appeal site, and the provision of a long-stay cycle parking space within the building. For the reasons set out in my decision, this cycle parking provision secured by the obligations is necessary for the proposal to comply with Policy T3 of the Local Plan.
24. A CPZ review contribution of £15,000 has been included. However, I have found that the proposal will have limited effect on local on street car parking. Furthermore, it is also unclear how the figure of £15,000 has been derived. Therefore, there is not evidence to suggest that the sum requested is fairly and reasonably related in scale and kind to the scale of the works requested.
25. A delivery and servicing monitoring contribution of £9,000 has been included. However, as I have found that the proposal would not result in a noticeable uplift in servicing and deliveries, I am not persuaded that it is necessary to make the development acceptable in planning terms.
26. Consequently, I am unable to conclude that the CPZ and delivery and servicing monitoring review contributions would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and as such these obligations should be disregarded from the UU.

Conditions

27. I have had regard to the various planning conditions that have been suggested. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and for clarity and consistency.

28. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty.
29. In the interests of character and appearance, and living conditions of neighbouring occupiers I have imposed the suggested conditions to prevent the installation of additional advertisements and mechanical ventilation plant and machinery within the unit's elevations.
30. I consider that the Council's suggested condition to restrict the number of gaming machines would pass the test of reasonableness as required by paragraph 57 of the Framework. This is because a limit to the number of machines is necessary and reasonable to protect the living conditions of neighbouring occupiers by preventing an excessive number of patrons from occupying the appeal site. Similarly, a condition requiring the proposal to be operated in accordance with the Operational Management Plan (OMP) is necessary in the interests of neighbouring occupiers' living conditions.
31. I have not imposed the suggested condition which related to the provision of cycle parking prior to the occupation of the unit. This is because this matter is addressed within the UU. As I have found that the proposal will not have servicing demands which are greater than the previous use at the appeal site, and as the appeal site has sufficient space for waste storage, I do not consider that conditions requiring further details of waste storage and a delivery and servicing plan are necessary.
32. Given the very busy character of the area, and as, subject to conditions restricting the number of gaming machines and requiring compliance with the OMP, I have found that the proposed use would not generate harmful additional noise, I do not find the Council's suggested condition related to noise criteria to be necessary. As the proposal involves only internal alterations, which are limited in scale, I do not consider that a condition requiring a Construction Logistics Plan would be reasonable or necessary. Therefore, I have not imposed these suggested conditions.
33. As planning permission is required to change from one sui generis use to another sui generis use, it is not necessary to impose the Council's suggested condition to this effect.

Conclusion

34. For the reasons above, and having regard to all other matters raised, I conclude the proposal would accord with the development plan and the Framework. The appeal is therefore allowed.

B Pattison

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 shall be carried out in accordance with the following approved plans: Location Plan Ref: 3492-0250; Site Plan Ref 3492-0500; Existing Floor Plans and Elevations Ref: 3492-1000/A; Proposed Floor Plans and Elevations Ref: 3492-2000/F.
- 3) No advertisements shall be displayed on or within any elevation of the building without details of the advertisements having first been submitted to and agreed in writing by the Council.
- 4) No alterations shall be carried out to the external elevations or shopfront of the building, including the installation of mechanical ventilation plant or equipment, water tank(s), enclosures or other structures, that are not shown on the approved plans, without planning permission or advertisement consent first being obtained.
- 5) The development shall be carried out in accordance with the management measures as stated in the Operational Management Plan (May 2024). This includes the requirement that no alcohol shall be served on the premises at any time.
- 6) The bingo club hereby approved shall not provide more than 60 gaming machines/tablets.

END OF SCHEDULE