Appeal Decision

Site visit made on 4 July 2025

by N Perrins MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2025

Appeal Ref: APP/T5150/W/25/3363789
265 Neasden Lane, Neasden, London NW10 1QG

- 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 Merkur Slots Ltd (UK) against the decision of The London Borough of Brent.
- The application Ref is 24/3623.
- The development proposed is the change of use of vacant ground floor bank Class E (c) (i) into an Adult Gaming Centre (AGC) (Sui Generis).

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the vitality and viability of Neasden Town Centre.

Reasons

3. The appeal site is a ground floor commercial unit located within the Secondary Frontage of Neasden Town Centre on the corner with Birse Crescent. The ground floor was last occupied as a bank that closed in December 2017 since which time it has been vacant. The appeal proposal is to change the use from Class E use to an Adult Gaming Centre (AGC) Sui Generis use. The appellant operates an existing AGC at 304 Neasden Lane that would be moved to the appeal site. I noted on my site inspection that there are several existing AGCs, including 304, in relatively close proximity to each other in the town centre.

4. Policy BE5 of the Brent Local Plan 2019-2041 (BLP) states that AGCs will be permitted where they do not result in more than 3% of the town centre frontage consisting of AGCs or pawnbrokers / payday loan shops. The Council state this restriction is required because an over concentration of AGCs can reduce footfall and harm the vitality and viability of a town centre. I note the appellant has provided some contrary evidence to this that seeks to identify that AGC uses can contribute positively to footfall in centres including linked trips. Whilst I agree that AGCs can have some benefits in this regard, the evidence presented of itself it is not conclusive to override the clear policy requirements of Policy BE5.

5. Both parties have presented analysis that looks at the lengths of frontages, which I agree provides a more accurate picture than just looking at uses in units. However, there is a disagreement between the appellant and the Council over the precise

length of the frontage that would be in AGC use were the appeal proposal to be allowed. The appellant state that they have measured the frontage using professional measuring software although no evidence is presented that confirms the accuracy of this. Equally, the Council had have not provided detailed measurements although do explain their methodology.

6. Notwithstanding this, I find that when measuring the frontages it is necessary to include the existing unit 304 Neasden Lane as an AGC in the calculations. Whilst the existing operation is proposed to move to the appeal site it does not change its status as lawful AGC use that could be re-opened by a new and separate AGC operator once the appellant has moved out. With 304 included in the calculations, the evidence before me indicates that between 4.149% (the appellant's figure) to 4.92% (the Council's figure) would be in AGC use were the appeal proposal to go ahead. Whichever measurement is ultimately correct, both figures confirm that there would be a substantive breach of the 3% provision set out in Policy BE5.

7. In response to this breach of policy, the appellant has provided marketing evidence in the form of a letter from the current commercial agent. This letter states that the property has been marketed for 8 years without attracting any active interest other than for the AGC use proposed in this appeal. The reasons cited in the letter state that the reasons for the lack of interest are that the property is in a poor state of repair and would require significant upfront capital costs by a prospective tenant and the restrictions associated with sub-leasing.

8. Whilst I acknowledge that the property has been vacant for a considerable amount of time, the marketing information presented is very brief and does not provide any substantive evidence or detail about how active the marketing has been since it started in 2018 in terms of what uses it was seeking, whether it has been continuous throughout, the numbers of enquiries lodged in each year and documented feedback given to corroborate the reasons given for lack of interest.

9. There is also no evidence to confirm what the sub-lease issues are and how they have actively prevented a policy-compliant use from coming forward, but which seemingly does not apply to the appeal proposal. Accordingly, I am not satisfied that the marketing evidence as presented conclusively demonstrates that there is no realistic prospect of an alternative use for the building being found. I, therefore, give the marketing information as presented limited weight in this decision.

10. I am also aware that the appellant contends that there would be negative implications were the appeal not to be allowed by existing employees losing their jobs, two vacancies being created in the Town Centre instead of one, and the loss of the existing operator that currently contributes positively to the footfall of the town centre. In this regard, the appellant cites that their existing AGC operation at 304 will close due to the lease expiring thus driving the need to relocate to the appeal property to stay in the town centre.

11. However, no evidence is presented that confirms why the lease at 304 could simply not be renewed to enable the current operation to remain in situ and to ensure the negative implications suggested could be avoided. Without it being confirmed why the existing operation could not be retained in situ I only attribute limited weight to the purported negative implications were the appeal proposal to not go ahead. Furthermore, in this context the development plan cannot reasonably be interpreted as actively stopping an existing use from operating.

12. I acknowledge that the appellant has submitted a Unilateral Undertaking that would ensure the existing operation would close before the new one at the appeal property is occupied. The appellant has also confirmed they would accept a Grampian condition to require evidence to be presented to confirm this position before occupation. Whilst this is a positive show of intent from the appellant, it does not overcome the issue that the re-location would still result in an overconcentration of AGCs use in the town centre contrary to Policy BE5 given that 304 would remain available to be used as an AGC.

13. I am also aware of appeal decision Ref APP/T5150/W/21/3272089 where an Inspector concluded that the benefits of the proposal in that case outweighed the breach of Policy BE5. The breach in that case was around 3.38%, which is considerably less than the breach that would occur by the appeal proposal. As such, appeal decision Ref 3272089 is not sufficiently comparable to justify the conflict with the development plan in this case.

14. The Council are also concerned with the prominence of the unit as it has two frontages being on a corner plot. Whilst the unit wraps around onto Birse Crescent, it is only a small section of total shop front. The unit also does not appear to me as being materially more prominent in the frontage than the existing operation at 304. I, therefore, do not agree that its corner position in the frontage would result in material planning harm to the extent it would justify refusing planning permission in the event of all other matters found to be acceptable. However, finding no harm in respect of the size of the unit and its siting does not outweigh the harm identified from an overconcentration of AGC use on the overall vitality and viability of Neasden Town Centre.

15. In conclusion, the appeal proposal would result in an unacceptable over concentration of AGC uses within secondary frontage contrary to the provisions of Policy BE5, which would result in harm to the vitality and viability of the town centre. The material considerations as presented are not sufficiently evidenced to outweigh the clear conflict with the development plan. Accordingly, the proposal’s use is contrary to Policy BE5 and DMP1 of the BLP, which seek to limit the amount of frontage in AGC use and ensure that uses complement the locality.

Other matters

16. I am aware that objections have been raised regarding the impact from existing AGCs in the area in terms of anti-social behaviour and other societal impacts. However, there is no conclusive evidence before me that confirms the proposal is unacceptable in these respects. Finding no harm in this regard, however, is not determinative to this decision, which is unacceptable for other reasons.

Conclusion

17. For the reasons given above and considering all matters raised, I conclude that the proposal is contrary to the development plan. There are no material considerations before me that outweigh the conflict with the development plan. Therefore, for the reasons given, the appeal is dismissed.

N Perrins

INSPECTOR