



Appeal Decision

Site visit made on 4 November 2025

by **S Simms BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 December 2025

Appeal Ref: APP/G5750/W/25/3371720

401A, 403 & 405 Green Street, Upton Park, London E13 9AU

- 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 against the decision of the Council of the London Borough of Newham.
 - The application ref. is 25/00834/COU.
 - The development proposed is a change of use of unit 401a from Class E to Adult Gaming Centre (Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of unit 401a from Class E to Adult Gaming Centre (Sui Generis) at 401A-405 Green Street, London, E13 9AU in accordance with the terms of the application, ref. 25/00834/COU, and the plans submitted with it, 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 the following approved drawings and documents:
 - 524-PL-100 (Revision 01) Proposed Ground Floor – 17.03.2025
 - 100022432 Site Location Plan – 22.04.2025
 - 3) The development shall be implemented in accordance with the submitted Merkur Slots Secured by Design Measures Document. These measures shall be retained and maintained thereafter.

Background and Main Issue

2. Whilst the reason for refusal was entitled 'Overconcentration of adult gaming centres', it also referred to over-proliferation of 'non-quality' leisure uses.
3. The main issue is therefore the effect of the proposal on the health and well-being of the local population and the vitality and viability of the town centre.

Reasons

4. The appeal site comprises three units in Green Street District Centre; two in use as an adult gaming centre (AGC) and one vacant, having been used as a shop until five years ago. Planning permission to extend the AGC into the unit was refused in 2022 and an appeal dismissed, as it would exacerbate a shortage of

‘quality’ leisure uses (defined in Policy SP9 of the Newham Local Plan 2018 (NLP) as excluding former Class A5 uses, amusement arcades and betting shops).

5. It is common ground that the proposal would exacerbate a shortage of ‘quality’ leisure uses, but the appellant considers that the failure to find a tenant, despite the site being marketed at a competitive rent for almost two years, and the fact that a gaming licence has been granted outweigh what is a marginal breach of policy. The resubmission that is now subject of this appeal was also refused on the basis that it would compound linear and area over-concentrations of AGCs.
6. The Council states that its 2022 Retail and Leisure Study found only 52% of the leisure uses in the centre was ‘quality’, against the requirement of at least 67% in that policy. The appellant refers to a document called Evidence Base: Town Centres Update – 2021 data, published in February 2023, which indicates that 64.7% of the leisure uses was ‘quality’, and states that this was confirmed by their own town centre survey, therefore representing up-to-date data.
7. I have no copy of any of these documents and only an extract comprising a table from the Town Centres Update. It is also unclear whether the ‘uses’ referred to in each data are occupiers or units. Whilst it is common ground that a shortage of ‘quality’ leisure uses still exists, the previous appeal inspector proceeded on the basis that the proportion of ‘quality’ uses was close to the threshold, and I have marginally more evidence to support that position.
8. Bearing in mind the wider spatial strategy, including the need identified by NLP Policies SP6 and INF5 to maintain and develop the Green Street District Centre by, amongst other things, the renewal of floorspace and creation of a wider range of unit sizes, I am satisfied that an inability to find a tenant at a competitive rent for extended periods is a material consideration that could outweigh the part of Policy SP9 relating to the proportion of ‘quality’ leisure uses.
9. Further marketing information was submitted with the appeal, in response to the Council’s officer report. Whilst containing no account of disbursements and dates, it nonetheless describes advertising efforts and sets out several comparator rents demonstrating that the rent advertised was competitive. Detailed reasons for an enquiry not proceeding are not always available and, in the agent’s opinion, the unit is unlikely to let at a competitive rent in the foreseeable future.
10. The parts of NLP Policies SP6 and SP9 dealing with over-concentrations do not list AGCs as a use of which no more than two may be adjacent. Furthermore, in this regard they refer to uses rather than units, so that the existing double-width AGC would not be precluded from expanding on that basis alone. Similarly, I found only one other AGC on Green Street between Redclyffe Road and Plashet Road, so have no evidence of an area-based over-concentration either.
11. Whilst I have evidence as to proportions of ‘quality’ leisure uses, I have none to suggest that the proposal would result in too many non-retail uses. In particular, the proposal is not for a hot food takeaway and would retain a unit in a commercial use, so I find no conflict with NLP Policy SP6. Whilst not expanding the ‘quality’ leisure offer, the proposal would renew floor space, create a larger unit and thus maintain the District Centre, complying with NLP Policy INF5.
12. Whilst the proposed development would be contrary to part of NLP Policy SP9, which requires at least 67% of leisure uses to be ‘quality’, the breach would be

marginal and outweighed by sufficient evidence of marketing at a competitive rent for around two years. Furthermore, the proposal would bring the unit back into active use, introducing footfall and investment, and, notwithstanding the definition of a 'unit' in NLP Policy SP9, it would not change the overall mix of uses.

13. On balance, I find that the unit remaining vacant for the foreseeable future would harm the success, vitality and viability of the town centre to a greater extent than extending a 'non-quality' use into a small unit. In this context, I find that the proposal would also comply with NLP Policies SP1 and SP2 and with Policies E9 and SD6 of the London Plan (LP), adopted in March 2021, which seek to promote healthy and successful town centres and to support employment.
14. Similarly, due to the limited number of AGCs at present, the scale of the proposal and the fact that no new use would be created, I consider that any limited harm to health and well-being would be addressed by benefits to the vitality and viability of the town centre. Therefore, the proposal would comply with LP Policy GG3, which seeks to create a healthy city, and with the aims of the National Planning Policy Framework on the well-being of communities and vitality of town centres.
15. Whilst a premises licence under the Gambling Act has been granted to extend into the unit and may prevent or reduce gambling-related harm, this is issued under separate legislation and cannot be relied upon to be renewed or to secure planning objectives, which address a wider range of matters.

Other Matters

16. Whilst parts of the previous appeal decision remain relevant, circumstances now are materially different: The unit remains unlet after two years despite marketing at a competitive rent and is unlikely to be let in the foreseeable future. These are material considerations to which I attach significant weight.

Conditions

17. I have attached the standard and drawings conditions suggested by the Council to comply with section 91(1) of the Town and Country Planning Act 1990 and to assist in defining the permission but amended the latter to remove documents that do not define the permission.
18. I have also attached a condition requiring the implementation of security measures in the interests of creating safer and sustainable communities. As there were no objections to the proposed measures, I have amended the condition to remove the requirement for further approval.

Conclusion

19. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. Consequently, I conclude that the appeal should be allowed.

S Simms

INSPECTOR