



Appeal Decision

Site visit made on 28 February 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th March 2023

Appeal Ref: APP/P4605/W/22/3307082

56 High Street, Erdington, Birmingham B23 6RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by BoyleSports (UK) Limited against the decision of Birmingham City Council.
 - The application Ref 2022/02444/PA, dated 18 March 2022, was refused by notice dated 28 July 2022.
 - The development proposed is change of use of ground floor from a bank (Use Class E) to a betting office (Sui Generis) as well as associated alterations and advertisement consent.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of ground floor from a bank (Use Class E) to a betting office (Sui Generis) with associated external alterations at 56 High Street, Erdington, Birmingham B23 6RT in accordance with the terms of the application, Ref 2022/02444/PA, dated 18 March 2022 and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading is taken from the application form, which was a joint application for change of use and advertisement consent. The Council has since granted advertisement consent¹ to the appellant for internally illuminated fascia and projecting signs. I have therefore amended the description in paragraph 1 above accordingly.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed change of use on the vitality and viability of Erdington Local Centre, and
 - Whether or not the proposed use would create a safe environment with particular regard to anti-social behaviour and fear of crime.

Reasons

Vitality and viability

4. The appeal site comprises a vacant 2-storey building that was last used as a bank, on the corner of High Street and Mason Road at the end/start of a

¹ LPA ref 2022/02445/PA

- pedestrianised stretch of Erdington High Street within Erdington's Primary Shopping Area. The site is also located opposite the Grade II listed Erdington Library.
5. The proposal would involve changing the use of the ground floor into a licensed betting office, together with external alterations to change some windows and install 2 satellite dishes and Air Conditioning (AC) units on the rear of the property.
 6. The Council describes Erdington as a Local Centre, although Policy TP21 of the Birmingham Development Plan (the 'BDP') lists Erdington as a District Centre. Nonetheless, it forms part of the Council's hierarchy of centres that act as a focus for the local community and offer a range of services and facilities. The policy seeks to maintain and enhance the vitality and viability of these listed centres.
 7. BDP Policy TP24 seeks to promote a diversity of uses within the centres listed in Policy TP21, consistent with the scale and function of the centre. As neither the previous use as a bank or the proposed use as a betting office are classed as retail units, the proposal would not result in the loss of a retail unit in the Primary Shopping Area.
 8. I saw that the High Street comprised shops selling a good range of food and comparison goods that provide for everyday needs, with representation from national and independent operators. I saw few empty units, although a shopping precinct off the High Street was mostly empty. At the junction with New Street the High Street ceases to be pedestrianised but continues to Six Ways junction. The High Street is therefore of a sizeable length and at the time of my visit, albeit a snapshot in time, was active with people and shoppers.
 9. According to the Council the existing proportion of retail units within Erdington Local Centre is 63.6%. This exceeds the retail thresholds of 55% and 50% for District and Local Centres respectively, as set out in BDP Policy TP24. This fact, together with my observations and using some of the indicators² of the 'health of town centres' indicates to me that the vitality and viability of Erdington High Street and the Local Centre are in a good state of health.
 10. Along the High Street, from the appeal site to Six Ways Junction, I counted a number of betting offices including one run by the appellant. There were also a number of adult amusement centres. However, they were spread out along the High Street. This spatial separation, coupled with the length of the High Street and its varied mix of shops and uses, means there is not a clustering or undue proliferation of betting offices.
 11. Betting offices are not uncommon in town or other centres across the country and can contribute to footfall, with customers making linked trips to other shops and services in the centre, thereby complementing and helping to maintain the vitality and viability of the centre. The front windows tend to be brightly lit and often have posters in the windows, as indeed do some retail premises, which can restrict views into the building. However, the previous use was a bank that did not have a large shopfront window and offered limited visibility into the building. The proposed external alterations would see some of the solid panels removed to make the ground floor windows taller, although

² Paragraph: 006 Reference ID: 2b-006-20190722 Planning Practice Guidance

some would likely have screening behind as the windows serve office/staff areas. Overall, there would be no significant difference to the street scene from the effect of the existing bank fenestration. The proposal would also bring a vacant building back into an active use on a prominent corner within the High Street and Primary Shopping Area and help retain economic investment in the area.

12. In conclusion on this main issue, the proposed betting office would not result in a loss of a retail unit or to an undue proliferation of betting offices. Furthermore, an additional betting office in the location proposed would not jeopardise the health of the High Street and would maintain the vitality and viability of Erdington Local Centre. Accordingly, the proposal would not conflict with BDP Policies TP21 and TP24.

Anti-social behaviour and fear of crime

13. Concerns have been raised by local residents, the local MP, local Councillors and other third parties about potential increases in anti-social behaviour and a fear of crime arising from the proposed betting office. The courts have held that the fear of crime can be a material consideration if there is some reasonable, cogent evidential basis linking the proposed use or occupiers with criminal activity.
14. During my visit in the daytime I did not observe any anti-social behaviour or groups of people hanging around outside any of the existing betting offices, or indeed outside any of the other premises in the High Street. Nor were there particularly significant signs of anti-social behaviour or public nuisance along the High Street such as graffiti. The betting offices I saw appeared to be well-maintained and I have no reason to believe the proposed betting office would not be similarly well-maintained and managed.
15. The Erdington Neighbourhood Policing Team refer to the wide demographic of the area, including people recovering from addictions whereby a betting office could add temptation and lead to a spike in crime. However, no crime reports, data or evidence has been submitted to demonstrate a link between crime levels or anti-social incidents associated with existing betting offices, or that an additional betting office would significantly increase such behaviours. Vulnerable persons in the area already have access to a number of betting offices and amusement and gaming centres on Erdington High Street, as well as off-licences and public houses in the area.
16. Through the Freedom of Information Act, the appellant has secured data from West Midlands Police of anti-social behaviour incidents logged in Erdington during a 5-year period from July 2017–June 2022 (which includes periods of national 'lockdown' during the Covid-19 pandemic). The data reveals there was 1 logged anti-social behaviour incident linked to a betting office. While there may be associations between gambling and crime and wider social issues affecting communities generally, in the absence of evidence to the contrary the data before me would indicate there is no direct correlation between betting offices and anti-social behaviour and/or increase in crime in the area.
17. Furthermore, there are licensing regimes to regulate gambling. Indeed, the Police advise that the use as a betting office would be regulated and licensed and many of the issues raised by objectors would fall under the licensing

obligations on the part of the operator. Any breaches of the licence conditions would bring their own sanctions.

18. The Police's Designing Out Crime officer has not objected but suggests improvement to external lighting of entrances and the rear area to help increase safety and reduce fear. I saw 2 street light columns on the pavement in close proximity to the main entrance on the corner of the building and in addition there will be illuminated projecting and fascia signs above the entrance. Hence the customer entrance would be well lit. However, the rear yard off Mason Road provides an unattractive and dark recessed area. The plans show this would be for two parking spaces and it also provides a fire exit route from the shopfloor and access to the bin storage. It would not be unreasonable to expect this area to be installed with some security lighting that would provide a safer environment for staff using this area and pedestrians walking by in hours of darkness. This can be conditioned. The Police have confirmed overall that they have no material considerations on which to object to the proposal.
19. Based on the evidence before me, the proposal would not directly lead to an increase in anti-social behaviour, or that fear of crime would be a material consideration upon which to withhold planning permission in this instance. Accordingly, the proposal would not conflict with BDP Policy PG3, which seeks, amongst other things, to ensure development designs out crime in order to create safe environments.

Other Matters

20. The Council raises no objections to the proposed external alterations to the building, including the installation of 2 satellite dishes and 2 AC units on the rear elevation. From what I saw I have no reason to take a different view. The Council's Regulatory Services team raised no objections to the replacement AC units apart from requesting a condition that the AC units only operate when the premises is open.
21. The Grade II listed Erdington Library is opposite the appeal site. Its significance is derived from its architectural and historic interest. Both buildings form part of an established high street and have done so for a number of years. Being sited on the opposite side of the road the appeal building makes a neutral contribution to the setting of the listed library. The Council has already undertaken an assessment of the effect of the illuminated fascia and projecting signs on amenity in its grant of advertisement consent. From the submitted evidence and my site visit observations, I am satisfied that the proposed change of use and external alterations would not have a harmful effect on the setting of the listed library.

Conditions

22. I have considered the 5 conditions put forward by the Council against the advice in the Framework and Planning Practice Guidance (the PPG) and have amended them in the interests of precision and clarity.
23. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty. To safeguard amenities of the area I shall impose conditions

restricting opening hours and operation of the AC units. The appellant is in agreement with these.

24. The Council has suggested a fifth condition requiring that the windows be clear glazed, and not obscured by internal posters or shelving above 1 metre high. The appellant objects to this condition. As already described, the building was a former bank with restricted visibility into it and does not have a large shopfront window. The building is in an existing established retail and commercial area with a mixture of window displays and signage. I have not been advised if the other betting offices along High Street have their front window displays restricted in a similar way, or that the appeal proposal is materially different as to warrant being treated differently. For this and the reasons described earlier, the condition would be unreasonable and unnecessary in this instance.
25. For reasons of designing out crime as already described, I shall impose a condition requiring the installation of external lighting to the rear yard area.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed.

K Stephens
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: Proposed ground floor plan BS/ERDN/08 Rev A; Proposed external alterations BS/ERDN/09 Rev B; AC condenser and satellite dish details BS/ERDN/11 Rev A; Location plan BS/ERDN/12 and Site plan BS/ERDN/13.
- 3) The premises shall only be open to customers between the hours of 0800 and 2200 hours, Mondays to Sundays.
- 4) The Air Conditioning units hereby permitted shall only be used during the opening hours set out in condition 3).
- 5) Prior to the development hereby approved first coming into use, details of a lighting scheme for the rear yard shall be submitted to and approved in writing with the Local Planning Authority. The approved lighting scheme shall be installed and operational before the betting office use is first brought into use.

End of conditions