



Appeal Decision

Site visit made on 4 September 2017

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20th September 2017

Appeal Ref: APP/F4410/W/17/3177052

1 St. Sepulchre Gate, Doncaster DN1 1TD

- 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 Mr R Holmes against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 16/02977/FUL, dated 23 November 2016, was refused by notice dated 22 May 2017.
 - The development proposed is change of use from A1 to betting office including alterations to shop frontage.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from A1 to betting office including alterations to shop frontage at 1 St. Sepulchre Gate, Doncaster DN1 1TD in accordance with the terms of the application, Ref 16/02977/FUL, dated 23 November 2016 subject to the conditions set out in the schedule attached to this decision notice.

Main Issues

2. The main issues are:
 - The effect of the proposal on the vitality and viability of the town centre retail area and primary shopping frontage
 - The effect of the proposal on the health and wellbeing of residents living within the Town Ward of Doncaster

Reasons

Vitality and viability

3. Saved Policy TC6 of the Doncaster Unitary Development Plan 1998 (UDP) seeks to protect the predominant retail function of identified primary shopping frontages. Limited changes to non- retail uses may be allowed provided they contribute to vitality and viability and do not seriously interrupt the continuity of the frontage. Although the UDP was adopted and saved prior to the publication of the National Planning Policy Framework (the Framework), I find Policy TC6 to have broad accordance with the requirements of paragraph 23 of the Framework. I therefore give the Policy full weight.
4. When the Policy was adopted betting shops were classified as an A2 use. I acknowledge that following changes to the Town and Country Planning (Use

Classes) Order 1987 in 2015 betting shops were removed from the A2 use class and became Sui Generis. I have therefore considered this appeal on the basis of its specific, individual circumstances and the potential effects of the particular use put forward. However, as a non-retail use I consider that Policy TC6 is directly relevant to the appeal.

5. The appeal premises sits within a pedestrianised area of the town centre and within a primary shopping frontage. It spans the corner of St Sepulchre Gate and the High Street which the Council identify as being the "crossroads" of the retail core and a location key to any retail strategy for increasing retail footfall. I also note the comments of the Council's Investment Officer (CIO) that the Council is working to increase families visiting the town centre for retail use. I saw that the appeal site, due to its corner location has a prominence when viewed from most directions within the centre.
6. At the time of my site visit at late morning on a weekday the centre was busy and footfall was apparent in all directions from the appeal site. The CIO confirms that the street maintains a low vacancy rate and I saw very few empty properties at the time of my site visit. I appreciate that this was just a snap shot in time but, from these observations the character of the town centre as a whole and of the area around the appeal site is that of a successful and vibrant shopping area.
7. The Council refer to a masterplan that has been prepared for the town centre. The masterplan acknowledges retail changes and patterns of change and responds to this by focusing the needs on the quality of the offer in a dedicated area to maintain and encourage new footfall.
8. The appellant has submitted details of a footfall survey based on an existing betting shop in the centre. The survey demonstrates that a betting shop is capable of generating a significant level of foot fall which would exceed some retail units. Furthermore, information from the Association of British Bookmakers Ltd (ABB) shows that a high percentage of customers to betting shops make linked trips. These figures have not been disputed by the Council.
9. I note that the unit has been vacant since November 2014 and despite comprehensive marketing undertaken by two separate agents the property has received no particular interest from retail operators predominantly due to the size and layout of the unit. The Council do not dispute the specifics of the marketing and from the evidence before me, I have no reason to doubt that a thorough and extensive marketing exercise was undertaken. While the Council considers that, given the resilience of the shopping area over the past years, there will be demand for retail in the near future, it offers no substantive evidence to support this claim.
10. The marketing was unsuccessful and importantly, the ground floor of the appeal site has not been used for either retail purposes or a conventional 'town centre' use since 2014. While the appeal site is in a prominent position the appellant has confirmed that a shop window display would be provided and the existing external roller shutter door would be removed. Such provision and alterations together with the potential level of footfall, linked trips and employment creation leads me to conclude that the proposal would contribute to the retail function of the shopping frontage and the aims of the masterplan.

11. The Council state that within a 100m stretch along St Sepulchre Gate there are a total of 6 units, 3 of which are retail, one of the units currently stands empty and the other two are banks (RBS and Yorkshire Bank). At my site visit I observed that there are a number of non- retail uses on the east side of St Sepulchre Gate. Nevertheless, the majority of the premises within the vicinity of the appeal site are in shop use, including those on the opposite side of St Sepulchre Gate and on Baxter Gate and French Gate. I acknowledge that the majority of the south side of the High Street is in non-retail use but this is designated as secondary retail frontage within the UDP. As a result, I do not consider that the appeal proposal would seriously interrupt the continuity of the primary shopping frontage.
12. The Council state that Doncaster has approximately 700 units in the town centre. From its licensing records there are a total of 14 betting offices and five gaming/ casino units which equates to around 1 in 36 units in the town centre which are licensed premises or less than 3%. Within this context, I do not consider the addition of one unit to be significant and note that there is no specific local policy regarding the number of betting shop uses.
13. The Framework states that policies should promote competitive town centres. I have seen no evidence to suggest that the current level of betting shops in the town centre provides sufficient choice and competition for town centre visitors, or that an additional betting shop would impact on the competitiveness of existing units.
14. I observed at my site visit that there was a betting shop within view of the appeal site on the High Street with an amusement centre next to it. In addition there is a further betting shop to the south of the appeal site on St Sepulchre Gate. I recognise that change to the character and feel of a local area can result incrementally from small-scale decisions consistently taken over time. However, there are a number of units in between the appeal site and the surrounding betting shops and I am satisfied that this, together with such low numbers of betting shops would not constitute a cluster that would detract from the vitality and viability of the town centre or be material harmful to the retail function of the town centre.
15. For the reasons above I conclude that the proposal would not be harmful to the vitality and viability of the town centre retail area and primary shopping frontage. There would therefore be no conflict with saved' policies TC5 and TC6 of the UDP, Policy CS7 of the Doncaster Core Strategy 2012 and the Framework. These require, amongst other things that the vitality and viability of centres is maintained and enhanced.

Health and wellbeing

16. The appeal site lies within the Town Ward of the Borough. The Council produces evidence from the publication Cards on the Table 2016 to suggest that the community living within the Ward demonstrate higher than average levels of groups of people most at risk of becoming problem gamblers. Consequently, it considers that the proposed betting shop, would encourage a rise in problem gambling thus resulting in a negative effect to the health and wellbeing of residents living within the Town Ward of Doncaster.
17. The appellant refers to evidence within the Health Survey for England 2012 (HSE) which appears to contradict some of the information provided by the

Council. However, the information in the HSE appears to relate to gambling in totality rather than problem gambling, with which the Council is concerned.

18. The Framework suggests that the planning system can play an important role in creating healthy communities. While I acknowledge that there may be a link between the make-up of the community of Town Ward and the characteristics of problem gamblers, both publications referred to by the appellant and the Council state that the number of problem gamblers is a very low percentage of the total population¹. Furthermore, while the Council state that 97.7% of the population of the Ward already live within 1km of a betting shop, it provides no evidence to suggest that problem gambling is already an issue within the Ward and if so at what level.
19. There is no substantive evidence before me to suggest that the number of residents in the Ward within 1km of a betting shop would increase through the addition of one further betting shop within the town centre, where such uses may reasonably be located. Furthermore, it has not been demonstrated that the appeal proposal would necessarily lead to an increase in problem gambling within the Ward. Moreover, the appellant refers to the Responsible Gambling Code which sets out a range of measures to make gambling more responsible.
20. I note that the premises received a Gambling Licence from the Council in January 2017. The Council states that the Licensing Authority does not have a duty to consider planning policies but does consider objectives regarding the management of an establishment i.e. crime and disorder, conducted in a fair and open way and that establishments protect children and other vulnerable persons from being harmed or exploited by gambling. While therefore not a planning consideration, and therefore not determinative, the issuing of the licence reinforces the protection for vulnerable persons.
21. For the reasons above, on the basis of the evidence in front of me, I conclude that the proposal would not have a materially harmful effect on the health and wellbeing of residents living within the town ward of Doncaster. There would therefore be no conflict with the requirements of part 8 of the Framework.

Other matters

22. Both parties refer to appeal decision APP/F4410/A/14/2219734 regarding the change of use of 5-7 St Sepulchre Gate from A1 to A2 which was allowed. However, at the time of her consideration of the appeal the Inspector did not have details of the end user and she was considering the change of use to an A2 use. Furthermore, No 5-7 although within the primary retail frontage does not occupy as prominent position as the appeal site. The appellant also refers to appeal decision APP/P4415/W/16/3155713 regarding the change of use of a property in Rotherham from an A3 use to a betting shop which was allowed. Given that the appeal was determined with respect to a different policy background and circumstances can vary from one location to another, without full details of this case it is difficult to draw any meaningful conclusions for this appeal. These decisions do not, therefore, lend significant weight in support of the appellant's case. In any event, each proposal should be considered on its individual merits, which I have done in this instance.

¹ Between 0.4 and 1.1% of the adult population Cards on the Table 2016

0.8% of men and 0.2% of women were identified as problem gamblers Public Health Survey 2012

23. The appeal site is located within the Doncaster – High Street Conservation Area. The Council found that the new shop front would preserve the character and appearance of the Conservation Area. Furthermore the removal of the external roller shutter would enhance the character and appearance of the Conservation Area. From my observations on site I saw nothing which would lead me to disagree with this view.

Conditions

24. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance and have made such amendments as necessary to comply with those documents. To provide certainty a condition is necessary requiring that the development is carried out in accordance with the approved plans.

25. I have imposed a condition requiring the implementation and retention of a shop window display in the interests of the vitality and viability of the unit.

Conclusion

26. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Zoe Raygen

INSPECTOR

SCHEDULE OF 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 plan: A/AJB/2309/15/02
- 3) A shop window display in all windows at ground floor level shall be installed before the use commences and retained for the lifetime of the use.

---END OF CONDITIONS---