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**THE EFFECT OF A BOOKMAKERS OUTLET LOCATED
WITHIN A RETAIL FRONTAGE**

**PREPARED ON BEHALF OF
PADDY POWER PLC**

Date: May 2012
Ref: 11.097

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1. Introduction

- 1.1 Cerda Planning has been instructed by Paddy Power Plc to undertake an assessment of the implications of providing Bookmakers offices within retail frontages on vitality and viability of the frontage.
- 1.2 Paddy Power Plc has embarked upon an expansion programme and is actively securing new sites to open Bookmakers offices. Paddy Power Plc are aware of the various limitations on development within retail frontages by local planning policies throughout the UK, and the sensitivity of any loss of retail floorspace. The primary issue for local planning authorities is to ensure vitality and viability of defined centres is maintained.
- 1.3 This report has been prepared to accompany planning applications and appeals submitted on behalf of Paddy Power Plc for new Bookmakers offices. It is intended to assist local planning authorities, and Planning Inspectors, in their determination of proposals for new Bookmakers offices in retail centres.
- 1.4 The report sets out at Section 2 the key defining attributes of Bookmakers offices. National planning policy is set out at Section 3, whilst Section 4 assesses the implications of siting Bookmakers offices within retail frontages. This assessment work focuses on two specific areas, firstly the level of footfall activity associated with a Bookmakers office compared with other retail units within a specific frontage (in this case Tooting High Street). Secondly, consideration is given to a number of previous appeal decisions where Planning Inspectors have made judgements on the implications for Bookmakers offices within retail frontages. A summary and Conclusions are drawn at section 5.
- 1.5 It is relevant to note that the footfall survey work, whilst undertaken in Tooting High Street, can be considered to be typical of any retail frontage within the UK and as such the data that has been obtained can be relied upon in respect of any retail frontage in any defined centre. The footfall survey work is not therefore site specific. As will be seen within Section 4 of this report, Inspectors have previously ruled that footfall survey work obtained from one defined centre can be considered a material consideration in respect of typical footfall flows elsewhere.

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2 Attributes of a Bookmakers Office

- 2.1 There has been a significant change in the operation and appearance of Bookmakers offices, largely following the de-regularisation of the industry approximately 10 years ago
- 2.2 The floor area of typical units range from one site to another, but generally comprise between 100 and 130 square metres. Each unit employs around 3 to 4 members of staff full time and one to two members of staff part time.
- 2.3 A Bookmakers office is open for long hours, usually 7.30am to 11.00pm Monday to Sunday, including Bank Holidays.
- 2.4 A Bookmakers office always includes a shop front, which is typically open with poster displays which are altered on a twice weekly basis advertising various sporting and other events. The operation and appearance of Bookmakers is thus more akin to a retail unit than the traditional Bookmakers property which had blacked out windows and operated limited hours
- 2.5 A Bookmakers office is usually open plan, and accommodates between 20 and 25 televisions together with standalone stations.
- 2.6 A large number of television displays is required because of the wide range of sports available/services provided including Poker, Casino, Betting and Games. Coverage of a number of sports are provided within the unit; these cover Horse Racing, Greyhound Racing, Football, Rugby Union, Rugby League, Golf, Tennis, Cricket, Motor Racing, Darts, Snooker, Cycling and Athletics. Of these, multiple matches within each sport can take place at any one time (for example over 40 football matches on Saturdays) and furthermore multiple sports take place at any one time (for example Rugby League, Rugby Union, Football Games all take place on Saturdays where leagues are run typically September to May).
- 2.7 Given the high level of data required to service the televisions displays between 3 and 4 satellite dishes are normally required to serve the use. These are usually sited to the rear of buildings or on the roof. In addition, a single antenna is also required
- 2.8 Bookmakers offices are usually air conditioned requiring between 2 and 3 air handling units. There would be externally mounted either within the rear yard of units or on first floor projecting extensions to the rear.

- 29 Rarely will a Bookmakers office extend above the ground floor. Level access is ordinarily achieved from pavement level, with level, access achieved within the entirety of the unit.
- 210 Customer toilets are always provided, including toilet facilities for people with mobility difficulties or other disabilities.

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3. Planning Policy

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- 3.1 Planning Policy at the national level is set out below.
- 3.2 Regional and local planning policies, including Supplementary Planning Guidance and Supplementary Planning Documents are not addressed within this report, but are dealt with in the Planning, Design and Access Statements submitted on behalf of Paddy Power Plc in respect of individual planning application proposals.

National Planning Policy Framework

- 3.3 The National Planning Policy Framework is a key part of the Governments reforms to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth
- 3.4 One of the NPPF's main statements is the Government's commitment to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
- 3.5 The NPPF states that where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.
- 3.6 Paragraph 34 deals with design. This makes clear that proposals which fail to take the opportunities available for improving the character and quality of an area and the way it functions should not be accepted

The Town and Country Planning (Use Classes) Order 1987

- 3.10 The 1987 Use Classes Order places betting offices in Class A2 – Financial and Professional Services, along with uses such as estate agencies and solicitors office. By contrast travel agencies and hairdressers are defined as Class A1 – Shops
- 3.11 Since 1987 the method and pattern of retail purchasing has been significantly altered by out-of-centre outlets, internet sales, large supermarket domination

etc. Similarly, leisure and eating out patterns have altered, particularly due to revised licensing laws. In some areas the Use Classes Order has been amended to reflect these changes, notably in respect of Casinos and hot food uses. However, the Use Classes Order has failed to keep up with the pace of change and because it does not reflect the nature to today's High Street each proposal must be considered on merit, having regard to the likelihood of harm being caused.

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4 Implications of Siting Bookmakers Offices in Retail Frontages

4.1 Having established the key defining characteristics of Bookmakers operation, and that as an A2 use, not normally accord with retail frontage policies, it is necessary to examine the actual effect of siting a Bookmakers operation within a shopping centre, and analyse any patterns or features that reflect and support town centre locations.

4.2 The research set out below comprises two parts:

1. Primary research based on field work survey, and
2. Literature review of recent appeal decisions considering the locational effects of Bookmakers offices.

i) Footfall Survey

4.3 The footfall survey involved fieldwork counting visitors to an existing Paddy Power Bookmakers. The hypothesis to be tested is:

"Notwithstanding the A2 Use classification, the customer activity associated with a Bookmakers operation is comparable to an A1 retail use."

4.4 The methodology involved counting actual visitors to a Bookmakers in Tooting High Street. To test the hypothesis it was also necessary to count visitors to traditional A1 retail outlets in the same location. Three neighbouring premises were selected providing a broad spectrum of outlet types. These included a supermarket (Lidl); a homeware store, and an Opticians.

4.5 In order to gather meaningful data, counts were undertaken on 3 separate days; Wednesday, Friday and Saturday, and over 3 different time periods range from 11am to 5pm.

4.6 The detailed results of the footfall are attached at **Appendix 2**. The results of the count are as follows:

	Paddy Power	Lidl	Home Essentials	Wheeler & Kirk Opticians
Wednesday				
1pm – 2pm	36	161	24	9
2pm – 3pm	53	179	35	7
3pm – 4pm	64	154	31	6
Friday				
2pm – 3pm	67	186	37	8
3pm – 4pm	58	209	30	6

	Paddy Powers	Lidl	Home Essentials	Wheeler & Kirk Opticians
4pm-5pm	63	212	28	4
Saturday				
11am-12Noon	52	163	11	20
12pm - 1pm	76	167	16	21
1pm - 2pm	48	159	27	18
Average:	57	177	27	11

4.7 It is to be noted that the latest data collected in the survey is up to 5.00pm on Saturday. This is on the basis that Wheeler and Kirk Opticians close at 5.30pm and a full hours data would not be available from 5.00pm onwards and therefore as such a comparison between each of the four outlets would not be possible.

4.8 However, Paddy Power opens until 10.00pm each day, and footfall therefore continues into the evening period. Whilst a direct comparison cannot be made with the other outlets due to their far more restrictive opening times, footfall data for the Paddy Power unit shows 24 visitors between 5.00pm and 6.00pm and 66 visitors between 6.00pm and 7.00pm. This footfall is significant and none would arise if the Paddy Power unit were in Class A1 use. This demonstrates the benefits to vitality and viability of Bookmakers office within a retail area.

4.9 In summary, the results show that; the average number of visitors per hour for a Bookmakers is 57.

- The visitors to the Bookmakers was around one third of visitors to the supermarket;
- The number of visitors to the Bookmakers was double those visiting the homeware store and five times those persons visiting the Opticians during the same period. In addition to the numerical data collected a number of important observations were made. Mostly notably; persons visiting the Bookmakers were also observed visiting the supermarket;
- All visitors to the Bookmakers arrived on foot, passing a number of other retail outlets;
- A number of persons travelling along Tooting High Street stopped to look at the Bookmakers window displays.
- Four people were observed re-visiting the Bookmakers during the duration of a daily count;
- People using the bookmakers are more likely to be alone than persons visiting the supermarket who tended to be in couples and/or with

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children.

- 4.10 The results prove that the footfall associated with a Bookmakers operation is comparable with other retail outlets. Indeed, the results confirm that the activity associated with a Bookmakers more closely reflects that of a traditional retail unit than the A1 options use
- 4.11 The results, coupled with the observations made during the fieldwork demonstrate that activity associated with the Bookmakers match that of retail operators, with users undertaking linked trips
- 4.12 These results, representing up to the minute primary research corroborates similar evidence provided by other Bookmakers in support of planning applications and appeals.
- 4.13 The evidence is presented where local authorities seek to resist non-retail uses in commercial shopping centres. Notwithstanding the A2 classification, the documented changes to Bookmakers operations together with footfall data and evidence of patterns of behaviour and activity associated with Bookmakers operations, many applications that were in conflict with restrictive retail policies, have been successfully agreed at appeal.
- 4.14 A review of relevant decisions is set out in the section below.

ii) Previous Appeal Decisions

- 4.15 As indicated above it is appropriate to consider previous judgements on the acceptability of Bookmakers offices within retail areas. It is particularly pertinent to consider such uses following the industry de-regularisation which has brought about distinct changes to the operation and appearance of betting offices
- 4.16 In this regard a number of appeal decisions have been reviewed. There are material to the assessment of betting office proposals. A summary of a range of appeal decisions is set out below, and the appeal decisions found at **Appendix 3**
- 4.17 **30/32 Bank Street Rawtenstall**
Change of use from Retail (A1) to office (A2)
T/APP/B2355/A/99/1027747/P9
"Paragraph 11...In my judgment, the proposed development Bookmakers

would not threaten the primary retail function of the town centre but is more likely to enhance the healthy balance between competing town centre uses which is the main objectives of policy S 3."

"Paragraph 13... It would have an open shop style frontage permitting views of the interior with window displays changing from time to time, including advertising odds relating to forthcoming sporting events...based on surveys of premises in a similar town centre location in Standish, it is expected that the number of customers would increase to about 550 to 750 per week... given this and the open nature of the frontage, I consider the use of the appeal site as a betting office is likely to stimulate pedestrian flows just as much as many Class A1 uses."

4.18 **25 Embassy Court Welling**

Change of use from Retail (A1) to Betting Office (A2)

T/APP/D5120/A/00/1035393/P6

"Paragraph 10 ...Dealing first with the likely impact of a betting office on the character, viability and vitality of shopping centres generally, I see no good reason why a betting office should have an adverse effect on the attractiveness or vibrancy of a shopping centre. In many cases, they exert substantial pedestrian pulling power and generate a greater level of activity than some types of shop. They are good customer attractions that can contribute to the interest and variety of a town centre."

"Paragraph 11... In the past it has been argued that betting offices present an unattractive or dead frontage to shopping streets and therefore disrupt the continuity of the frontage. But deregulation of the industry has meant that many modern betting offices have comparatively open, well lit, glazed frontages."

"Paragraph 15... Despite the fact that the appeal premises would result in three consecutive units in non retail use, I believe that the activity that a betting office would introduce would enhance the precinct. It would encourage people to enter the area and, once there, they would be potential customers of the other shops."

4.19 **354 Rayners Lane, Harrow**

Change of use from Retail (A1) to Betting Office (A2)

App/M5450/A/00/1043071

"Paragraph 9...I consider that the attraction of customers to the appeal premises would result in additional visits by those customers to other shops in the key shopping frontage, to the benefit of the future vitality and viability of the district shopping centre."

4.20 **57 Station Road, Hayes**
Change of use to Betting Office (A2)
T/APP/R5510/A/95/258479/T7

"Paragraph 12...A prime measure of vitality in a town centre is the number of people attracted to it at different times of the day and evening, available for businesses to attract into shops, restaurants and other facilities. Independent surveys, supported by your own surveys, show convincingly that betting offices attracted considerable numbers of customers indeed more than many retail uses. Bearing in mind the long opening hours, and the likelihood that a fair proportion of customers would combine a visit with shopping trips, I consider that this proposal would have the effect of adding to the vitality of the town centre."

"Paragraph 13...Another essential element of vitality and attractiveness is diversity. Although the policy of retaining a high proportion of frontages in Class A1 retail use can be justified, that does not seem to me to be the same justification for restricting the smaller proportion of A2 uses to Banks and Building Societies. The Use Classes Order was designed to allow flexibility within the sector, permitting a free interchange within a wide range of services which the public now expects to find in shopping areas

"Paragraph 16...Over the last few years, betting offices have changed radically. Although the Council may wish to see them restricted to secondary shopping areas, I have little doubt that a modern, well presented establishment with a range of facilities now permitted would attract a significant number of people into the town centre. I am satisfied that a substantial number of them would combine their visit with shopping, thereby complimenting the main retail function of the primary shopping area enhancing its vitality "

4.21 **147 Crockhamwell Road, Woodley**
Change of use from Retail (A1) to Betting Office (A2)
App/X0360/A/05/1188963

"Paragraph 9...The appellant submitted evidence from surveys of existing betting offices which demonstrate that betting offices consistently attract considerably more people than the retail premises on either side of them. I recognise that the local circumstances of these premises may be very different from Woodley, but since the surveys are only comparing the level of trade between a betting office and the adjoining shops, I consider that local circumstances are fairly reflected...I consider that these surveys are credible evidence that betting offices normally attract a high level of activity and would often increase, rather than decrease, pedestrian flows where they are introduced"

4.22 **54 Lumley Road, Skegness**

Change of use from Retail (A1) to Financial (A2)

App/D2510/A/11/2166516

"Paragraph 5 Lumley Road is one of the main shopping/commercial streets within the town centre and at the time of my visit, which was outside the main holiday season, exhibited high pedestrian flows. It struck me from both my own observations and the evidence before me that the number of vacancies appeared to have risen, particularly since the Council commissioned a Retail Impact Assessment in 2008".

"Paragraph 6 In my experience and as the appellant's submission show, generally Class A2 uses can do and do attract as much and, in some cases, more comings and goings as do retail premises. Moreover, the comings and goings generally form part of linked trips to other town centre uses. The evidence indicates that despite vigorous marketing and a substantial reduction in the rent (25%) the owners have been unable to generate retail interest in the unit. Given the number of other vacant premises in the area and the current economic situation, I do not see that this situation would materially change if the owner continued to reduce the rent".

"Paragraph 9. The proposed change of use would not unacceptably affect the vitality and viability of Lumley Road and the town centre as a whole. Moreover, the bringing back into use of a unit that has remained empty for a significant period along with the consequent improvement in employment opportunity would represent a special advantage and contribute to the vitality and viability of Skegness Town Centre. Accordingly, the proposal would not conflict with objective of development plan policy".

"Paragraph 10. The standard time limit for commencement, the Council suggest a condition requiring details of the proposed frontage alterations. Given that planning permission would be required for alterations to the shop front, I consider a condition along these lines is unnecessary.

- 4.23 A number of very significant conclusions can be drawn from the opinions expressed by Inspectors in the appeal decisions outlined above.
- 4.24 Firstly, the de-regularisation of the industry requires local Planning Authorities to consider radically altering their approach to applications betting offices. Betting offices now present an attractive, open frontage with changing shop displays, akin to a Class A1 retail unit, and, do not present a dead frontage.
- 4.25 Secondly, a betting office use is complimentary to more traditional Class A1 retail premises and linked trips between betting offices and other retail units are highly likely. Indeed, betting offices can assist in drawing members of the public into a shopping area and, once there, will encourage additional spend within the shopping area to the benefit of its vitality and viability.
- 4.26 Members of the public also expect modern shopping areas to include a range of facilities and activities, rather than a limited retail offer. Betting offices, are now a key feature of the high street and can assist in this diversity of uses and activities which assists in the attractiveness of retail areas.
- 4.27 Furthermore, it has been shown that the footfall associated with a betting office is at least equal to, and indeed in many cases far more significant than the footfall associated with traditional Class A1 retail premises. This in itself is a distinct benefit in respect of vitality and viability of a shopping area.
- 4.28 In view of the advantages of a betting office as described above, the appeal decisions indicate that the provision of three consecutive non A1 units, including at least one as a betting office, can be considered to be appropriate even in primary retail frontages.
- 4.29 In addition, it is clear that whilst primary survey data will only relate to one retail area, the principles can and should be applied to other shopping areas, since local circumstances would be fairly reflected.
- 4.30 Finally, the appeal decisions outlined above find that despite locally restrictive retail policies the location of Bookmakers in retail areas supports the wider

objectives of planning policy set out at national, regional and local levels in seeking to maintain or improve the attractiveness of shopping areas, ensure the primary retail function is not unacceptably adversely affected, and that the vitality and viability of the area is maintained.

- 4.31 These decisions underpin and support the conclusions drawn from the footfall data collected at Tooting as described earlier in this report.

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5. Summary and Conclusions

- 5.1 This report, commissioned by Paddy Power Plc, has set out the attributes of Bookmakers offices and how the de-regularisation of the industry has led to a significant change in the way Bookmakers offices operate, i.e. akin to a retail unit.
- 5.2 Indeed, Bookmakers offices have been found to offer benefits over traditional retail units insofar as opening hours are significantly extended, with Bookmakers offices operate 7 days a week including Bank Holidays, which is likely to be far a more extensive activity than would be the case with a retail unit
- 5.3 The range of sports and facilities on offer within a Bookmakers office attract a wide range of clientele from varied social and economic backgrounds drawing a variety of people into a retail frontage.
- 5.4 National Planning Policy This has shown that there is a presumption for Bookmakers offices to be located within defined centres given the sustainability benefits that arise from such locations. Planning policy also makes clear that maintaining the vitality and viability of a retail area is a key issue.
- 5.5 By reference to the footfall survey work undertaken in Tooting, it has been shown that a Bookmakers office generates higher levels of footfall than other Class A1 retail units. This demonstrates that the levels of activity associated with a Bookmakers office are significant, which demonstrates that the unique characteristics of Bookmakers can significantly contribute to the vitality and viability of retail centres.
- 5.6 Moreover, the features of a Bookmakers office are such that linked trips with other retail units, for example a newsagents or supermarket is a further aspect associated with Bookmakers offices which weigh in favour of their beneficial impact upon vitality and viability.
- 5.7 This is particularly the case with clients of Bookmakers offices who will typically make two trips to the unit, the first to place a bet and the second to establish if they have been successful and thus collect winnings. During the period between visits to the Bookmakers office clients are likely to remain in the retail centre and visit other outlets.
- 5.8 In addition, reference has been made to a range of appeal decisions where

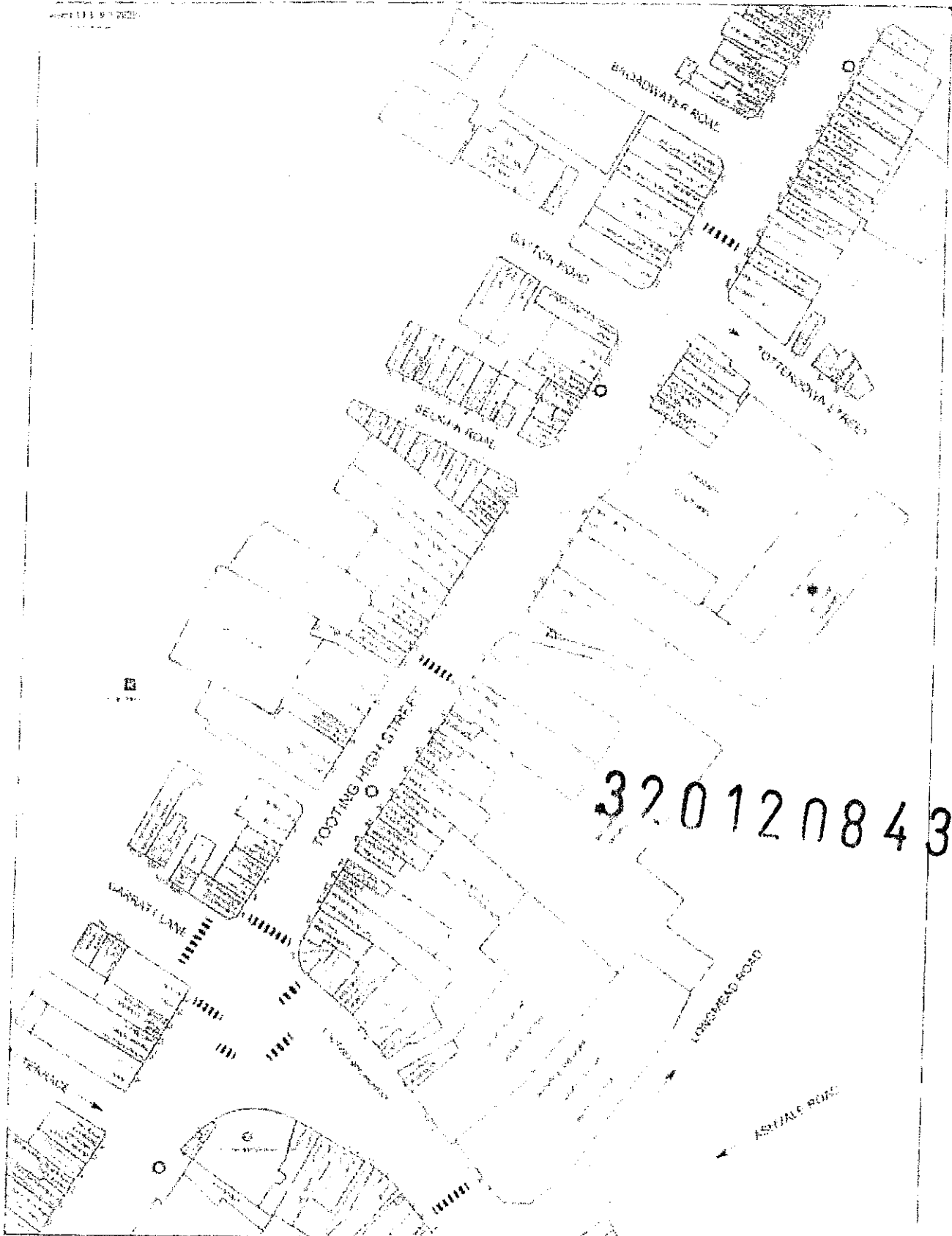
Inspectors have made previous judgments on the acceptability of Bookmakers offices within defined retail centres. The decisions relate to a range of issues, including levels of footfall (corroborating the results of the data obtained from Tooting), the acceptability of clustering, the benefits of bringing vacant units back into use, and the acceptability of Bookmakers offices within primary frontages.

- 5.9 All of these issues lead to the conclusion that since that a Bookmakers office is an entirely acceptable use within a defined retail centre, whether that be a primary or secondary frontage, and that principally as a result of the de-regularisation of the industry a Bookmakers office operates akin to a retail unit. Indeed, given the levels of footfall activity associated with a Bookmakers office, as demonstrated by the data obtained from Tooting, it could be argued that a Bookmakers office is more beneficial to the vitality and viability of retail centres when compared with other retail units.
- 5.10 This report provides sufficient evidence that Bookmakers display unique characteristics and allowing Bookmakers outlet within retail frontages is consistent with the approach taken by Inspectors at appeal.
- 5.11 As such, therefore, local authorities and Appeal Inspectors are respectfully requested to look favourably upon proposals for Bookmakers offices within retail frontages.

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APPENDIX 1

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APPENDIX 2

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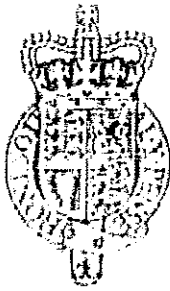
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TOOTING HIGH STREET

FOOTFALL SURVEY SHEETS - SATURDAY 3RD OCTOBER 2009

TIME	PADDY POWER	LIDL	HOME ESSENTIALS	WHEELER & KIRK OPTICIANS
11AM - 12 NOON	/////////////////////////////////// /////////////////////////////////// ////////////////////////////////// (52)	/////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// ////////////////////////////////// (183)	////////////////////////////////// (11)	/////////////////////////////////// (20)
12PM - 1PM	/////////////////////////////////// /////////////////////////////////// /////////////////////////////////// ////////////////////////////////// (76)	/////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// ////////////////////////////////// (167)	////////////////////////////////// (16)	/////////////////////////////////// (21)
1PM - 2PM	/////////////////////////////////// /////////////////////////////////// ////////////////////////////////// (48)	/////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// /////////////////////////////////// ////////////////////////////////// (158)	////////////////////////////////// (27)	/////////////////////////////////// (18)

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Appeal Decision

hearing held on 9 November 1999

by Philip Crookes BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for the Environment, Transport and the Regions

The Planning Inspectorate
Tolgate House
Houlton Street
Bristol BS2 9DJ
☎ 0117 957 8927

24 NOV 1999

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Appeal: T/APP/B2355/A/99/1027747/P9

- 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 brought by Aross Estates Limited against Rossendale Borough Council.
- The site is located at ground floor, 30/32, Bank Street, Rawtenstall
- The application (ref: 14/1999/064), dated 12 February 1999, was refused on 31 March 1999.
- The development proposed is change of use to office (Class A2)

Decision: The appeal is allowed and planning permission granted for change of use from retail (Class A1) to office (Class A2) in accordance with the terms of the application No: 14/1999/064 dated 12 February 1999, and the plans submitted therewith, subject to the following conditions:

- (i) The development hereby permitted shall be begun before the expiration of five years from the date of this decision
- (ii) The premises shall be used for a betting office only and for no other purpose (including any other purpose in Class A2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification)

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Procedural matters

1. The proposed development relates to a change of use from a retail shop within Class A1 of the Town and Country Planning (Use Classes) Order 1987 to a use within Class A2 of the Order.
2. The submitted site plan shows the location of the appeal site prior to the construction of the town centre by-pass (St. Mary's Way A682) which has resulted in the demolition of properties to the south west and west of the appeal site and the creation of a new junction with Bank Street. Drawing No. 2210/1 that accompanies the appellant's statement of case accurately reflects the location of the site and adjacent features and I have therefore had regard to it in determining this appeal.

The main issue

3. The main issue is the effect of the proposed development on the vitality and viability of the town centre and this part of Bank Street in particular.

The development plan and other policy considerations

4. The development plan comprises the Lancashire County Structure Plan of 1997 (LCSP) together with the Rossendale District Local Plan (RDLP) adopted in April 1995. Policy

Conditions

15. The Council has not suggested any conditions which might be imposed should I be minded to allow the appeal. However, during the hearing it emerged that the intended use was as a betting office. My conclusions are based on the implications of that specific use particularly in terms of the intended open frontage to the street and the significant pedestrian movements likely to be encouraged. In my view there are other uses also falling within the same use class which do not have these characteristics. In these circumstances, and having regard to the advice in Circular 11/95 - The Use of Conditions in Planning Permissions, I consider that the imposition of a condition restricting occupancy to a betting office to be reasonable and necessary. Such a condition would be acceptable to the Council and the appellant.

Conclusions

16. For the reasons given above I conclude that the appeal should succeed and I shall exercise the powers transferred to me accordingly.

Informalives

This decision only grants planning permission under Section 57 of the Town and Country Planning Act 1990. It does not give any other approval or consent which may be required. Attention is drawn to the enclosed note relating to the requirements of the Building Regulations 1991 with respect to access for disabled people.

Philip Cook

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APPEAL DECISION

APPEARANCES

FOR THE APPELLANT:

Ms J Dickman BSc(Hons) DipTP MRTPI FRGS FRICS	Property Tectonics
Mr G Turner	Consultant, Tote Bookmakers
Mr A Pready	Property Manager, Tote Bookmakers

FOR THE LOCAL PLANNING AUTHORITY:

Mr H D Morrison BSc DipTP MRTPI	Planning Officer
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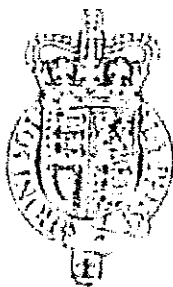
DOCUMENTS:

Document 1	List of persons present at the hearing
Document 2	Notice of Appeal
Document 3	Appendices to Ms Dickman's Statement
Document 4	Appendices to Mr Morrison's Statement
Document 5	Head Count Survey - Mick Dines, 9 Preston Road, Standish

PLANS:

Plan A1	Agreed Location Plan
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Costs Decision

hearing held on 9 November 1999

by Philip Crookes BSc (Hons) DipTP MRTP

an Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

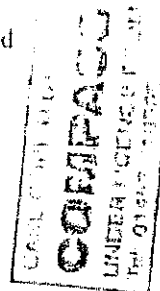
24 NOV 1999

The Planning Inspectorate
Tollgate House
Heaton Street
Bristol BS2 9DJ
Tel 0117 987 8927

Application : APP/B2355/A/99/1027747/P9

- The application is made under the Town and Country Planning Act 1990, Sections 78 & 322 and the Local Government Act 1972, Section 250(5).
- The application is made for a full award of costs by Aross Estates Limited against Rossendale Borough Council
- The site is located at 30/32, Bank Street, Rawtenstall.
- The hearing was in connection with an appeal against the refusal of planning permission for change of use to office (Class A2)

Decision: The application for an award of costs is refused.



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The case for the appellant

1. The Council only took into account the 1995 development plan (Policy S.3) and failed to heed other material considerations, notably the advice in PPG1 and PPG6 issued after the adoption of the Rossendale District Local Plan. In this respect the Council did not follow the requirement set out in paragraph 8 of Annex 3 to Circular 8/93 and has also relied upon an out of date plan in reaching its decision. There is no prospect of the plan being updated for at least another year and, in this respect, the Council has acted unreasonably in the terms set out in paragraph 13 of Annex 3. Although it is not suggested that Council officers have been unco-operative, the Council also caused delay in providing information related to the appeal when requested by the appellant's agent thereby causing specific visits to the Council offices to be necessary. As a result of its actions the Council has acted unreasonably which has resulted in unnecessary appeal proceedings. A full award of costs is therefore justified.

The case for the local planning authority

2. The officer's report may not have referred explicitly to either PPG advice from above, or supplementary planning guidance from below, but was written within that context. The Council disagrees that it has failed to address material planning considerations and the appellant company has not furnished information in support of its contention. Policy S.3 has not been undermined by recent PPGs. Officials have not been uncooperative and all requests for information have been met within a reasonable time period bearing in mind that officers have many competing priorities to address. The Council is confident that the appellant's case has not been compromised by any delays in responding to requests for information whilst deadlines associated with the appeal process itself have all been met.

Inspector's reasoning

3. I have dealt with the application for costs in accordance with the policy guidelines in Circular 8/93, and all the relevant circumstances. Irrespective of the appeal outcome, costs

APPEAL DECISION

may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expenditure unnecessarily

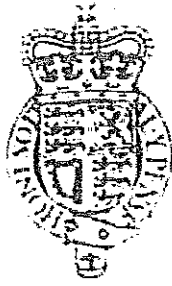
4. Adoption of the Rossendale District Local Plan pre-dates the most recent versions of PPG 6 (1996) and PPG1 (1997) and I agree with the appellant that the report considered by the Committee does not refer to national guidance. Policy S.3 of the local plan, upon which the Council has relied, sets out to protect the retailing function of the town centre and maintain a "healthy balance" between competing uses. I find nothing in this that conflicts with the general advice in PPG6 or national guidance generally. The fact that national guidance was not specifically referred to in the Committee report in my judgement is not unreasonable in these circumstances. I am also mindful that the Council has passed a resolution to review the local plan which, to my mind, indicates that reasonable steps are being taken to bring it up to date.
5. I have concluded that a Class A2 use is acceptable, but only if restricted to use as a betting office. This indicates that I found the case to be a finely balanced one. The Council has produced evidence to substantiate its reason for refusal by reference to the development plan and all other material considerations. Although I have come to a different decision, this is a matter of judgement and I consider that it was not unreasonable for the Council to arrive at its decision in the manner it did. I can also see no reason to conclude that the Council has unreasonably delayed responding to requests for information and the appellant accepts that it has not been unco-operative.

Conclusions

6. I do not consider that unreasonable behaviour, as described in Circular 8/93, has been demonstrated and I therefore conclude that an award of costs is not justified. I shall exercise the powers transferred to me accordingly.

Philip Cooper

320120843P



Appeal Decision

Site visit held on Monday 13 March 2000

By George Mapson DipTP DipLD MRPI

Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

The Planning Inspectorate
Tollgate House
Heron Street
Bristol BS2 8UJ
Tel 0117 921 8527

13 APR 2000

COPIED BY
COMPAS
UNDER LICENCE FROM THE
TOWN & COUNTRY PLANNING
ACT 1990

Appeal 1: T/APP/D5120/A/00/1035393/P6

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against refusal to grant planning permission
- The appeal is brought by Village Turf Accountants Limited against the Council of the London Borough of Bexley
- The site is located at 25 Embassy Court Welling, Kent
- The application (ref:99/02433/FUL), dated 17 September 1999, was refused on 17 December 1999
- The development proposed is described on the planning application form as "Change of use to A2 Financial Professional Services as a betting shop". On the decision notice the Council has described the proposal as "Change of use from retail (Class A1) to betting office (Class A2)"

Decision: The appeal is allowed and planning permission granted subject to conditions set out in the attached schedule

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Site and surroundings

- 1 Embassy Court is a post-war shopping precinct arranged around three sides of a car park. It stands on the southern side of High Street Welling and forms part of the 'core shopping frontage' of Welling Major District Shopping Centre as defined by the adopted London Borough of Bexley Unitary Development Plan [UDP] (1996)
- 2 No 25 Embassy Court is a vacant shop unit on the southern side of the precinct. It is part of a three-storey terrace with basements comprising nine ground floor shops, with living accommodation over accessed from a deck at the rear. One other shop unit within this terrace is vacant
- 3 A Tesco supermarket occupies a single storey building that comprises the eastern side of the precinct. This building presents a blank wall, flanked by a trolley store, to the rest of the precinct
- 4 A two-storey terrace of nine shops and commercial uses occupies the western side. At the time of my site visit, four ground floor units were vacant, although I understand that planning permission has been granted for a restaurant use of one of them.

The appeal proposal

- 5 I consider that the Council's description of the proposal, as set out in its decision notice, best reflects the nature of the development and I shall determine the appeal on that basis

The development plan

- 6 The Council considers that three UDP policies are relevant to this appeal. Of these the principal policy is Policy SHO5, which applies to changes of use of ground floor shops within the defined core shopping frontages. Of less direct relevance are Policy T15 (which applies to parking

APPEAL DECISION

provision) and Policy ENV39 (which aims to protect and enhance the quality of the built environment)

- 7 Policy SHO5 seeks to resist the change of use of shops to uses that would not enhance the character, viability and vitality of the centre. The objective is to prevent an over-concentration of non-retail uses within parts of the centre, and to meet this objective the policy sets down seven guiding criteria, all of which must be satisfied by proposals. In this case the Council confirms that six criteria are satisfied by the proposal, but that the appeal proposal conflicts with Criterion 3 because the site adjoins two average units (Nos 26 and 27) that are already in non-retail use. Both units are restaurants.

The main issues

- 8 Having regard to UDP Policy SHO5 I consider that the main issue in this appeal is whether the use of the premises as a betting office would harm the character, viability and vitality of Welling Major Shopping Centre.

Inspector's reasons

- 9 The Council offers no empirical evidence to support its contention that a betting office use in this location would cause such harm. Its case focuses mainly on the fact that criterion 3 of Policy SHO3 would not be met.
- 10 Dealing first with the likely impact of a betting office on the character, viability and vitality of shopping centres generally, I see no good reason why a betting office should have an adverse effect on the attractiveness or vibrancy of a shopping centre. In many cases, they exert a substantial pedestrian pulling power and can generate a greater level of activity than some types of shop. They are good customer attractions that can contribute to the interest and variety of a town centre.
- 11 In the past it has been argued that betting offices present an unattractive or "dead" frontage to shopping streets and therefore disrupt the continuity of the frontage. But deregulation of the industry has meant that many modern betting offices have comparatively open, well-lit, glazed frontages. This can be seen with the new Ladbrokes betting office at 29 Bellegrave Road, Welling, which was allowed on appeal in June 1999.
- 12 Turning next to the particular circumstances of this case, I appreciate that the objective of Policy SHO5 (Criterion 3) is to avoid clusters of non-retail uses within the shopping centre. However, the high level of vacancy in retail premises in Embassy Court, and the generally uninviting appearance that has created, are important material considerations to be weighed against a rigid application of the policy.
- 13 Welling Major Shopping Centre is a predominantly linear centre. As a whole it appears to be a bustling, popular area that provides a full range of shops and services. But from my observations, it seems that most shoppers remain on High Street where the major attractions are. Embassy Court is not on the main pedestrian circulation route, and the blank wall of the supermarket on one side and the vacant shops on the other do little to encourage pedestrian movement into the precinct. Much of the pedestrian movement that is generated can be attributed to the car parks at the front and rear.
- 14 I saw that most of the vacant units within the core shopping frontage are concentrated in Embassy Court. The number of empty shops and the type of shops that remain suggest to me that this precinct is in retail decline. The apparent lack of market demand for shops here is reflected in the changes of use of several units to restaurants. The realistic prospect of the appeal premises, and all the other vacant units, remaining in retail use appears remote.
- 15 Despite the fact that the proposed use of the appeal premises would result in three consecutive units in non-retail use, I believe that the activity that a betting office would introduce would enhance the

precinct. It would encourage people to enter the area and, once there, they would be potential customers of the other shops.

- 16 I therefore conclude that the proposed use would neither harm the character, viability and vitality of Welling Major Shopping Centre nor undermine the objective of Policy SH05.

Conclusions

- 17 For the reasons given above I consider that, on balance, the appeal should succeed. I shall exercise the powers transferred to me accordingly and grant planning permission, subject to conditions. I have taken account of all the matters raised in the written representations, but none is sufficient to override the factors that have led me to my decision.

Conditions

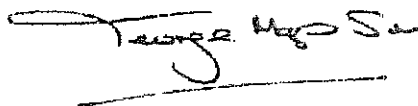
- 18 The Council has suggested four conditions that might be appropriate to impose should the appeal succeed. These are firstly, the standard time limit condition, secondly, a restriction on the use of the premises as a betting office only, thirdly, a requirement to implement of a scheme of sound attenuation measures, and fourthly, a restriction on the hours of opening.
- 19 In addition to the time limit condition, I propose to impose two of the suggested conditions. First, I regard a condition restricting the use to a betting office as reasonable and necessary in this case because other uses within Class A2 might not provide the same degree of customer attraction. Second, a condition relating to sound attenuation measures is needed in order to safeguard the living conditions of occupiers of the upper floor flats because it is likely that the use would entail amplified sound. I consider that it is unnecessary to impose a condition restricting opening hours because licensing legislation precludes evening and Sunday opening.

Formal decision

- 20 The appeal is allowed and planning permission is granted in the terms set out in the attached schedule.
- 21 This decision does not convey any approval or consent required under any enactment, byelaw, order or regulation other than section 57 of the Act.

Rights of appeal against decision

- 22 This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against my decision to the High Court are enclosed for those concerned.



George Mapson

Inspector

APPEAL DECISION

Schedule:

Appeal 1: T/APP/D5120/A/00/1035393/P6

The appeal is allowed and planning permission granted for the change of use from retail (Class A1) to betting office (Class A2) at 25 Embassy Court, Welling Kent in accordance with the terms of the application [No. 99/02433/FUL] dated 17 September 1999 and the plans submitted therewith, subject to the following conditions

- (i) The development hereby permitted shall be begun before the expiration of five years from the date of this decision
- (ii) The premises shall be used as a betting office only and for no other purpose, including any purpose in Class A2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification
- (iii) Before the commencement of the use hereby permitted, the building shall be adapted so as to provide sound insulation against internally generated noise in accordance with a scheme that shall be submitted to and approved in writing by the local planning authority. Thereafter those sound insulation works shall be retained

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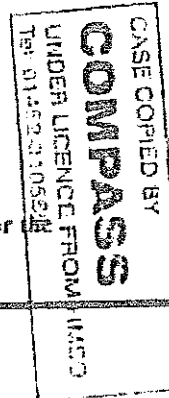


Appeal Decision

Site visit made on 8 August 2000

by P J Roberts FRICS

an Inspector appointed by the Secretary of State for
Environment, Transport and the Regions



The Planning Inspectorate
Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DU
☎ 0117 927 9277

Date - 6 SEP 2000

Appeal Ref: APP/M5450/A/00/1043071
354 Rayners Lane, Harrow, Middlesex

- The appeal was made under section 78 of the Town and Country Planning Act 1990 against the failure to give notice of a decision on an application for planning permission
- The appeal was made by Coral Estates Ltd against the failure of the London Borough of Harrow Council
- The application ref West/173/00/FUL/2744 was dated 1 March 2000
- The development proposed is the change of use to a licensed betting office and installation of a shopfront, air conditioning condensing units and a satellite dish

Summary of Decision:

I allow the appeal and grant planning permission in the form set out in the Formal Decision.

Main Issue

- 1 I consider the main issue in this appeal to be the effect of the proposal on the retail function of the Rayners Lane District Centre

Development Plan and other Planning Policies

- 2 The development plan comprises the Harrow Unitary Development Plan (UDP), which defines the Rayners Lane District Centre. In the plan, Nos 320 - 376 Rayners Lane are among those premises defined as a Key Shopping Frontage. Policy S13 of the Plan states that within the Key Shopping Frontages the change of use of retail shops to non-retail purposes will be resisted unless A) the proposed use provides a service which is directly related to a shopping trip and supports the retail function of the centre, B) a harmful concentration of non-retail uses is not created or added to; C) the total length of key frontage in non-retail use would not exceed 25%; and D) a window display would be provided
- 3 The supporting text to this policy states "Failure to meet criterion C will not automatically lead to a refusal of permission. However, it would have to be demonstrated that any proposal that resulted in the levels in criterion C being exceeded would have particular benefits which outweighed the potential adverse impact on vitality and viability."
- 4 Material considerations include the Council's review of their planning policies, agreed at a meeting of their UDP and Review Panel of 16 September 1998. The reasoned justification for the review of Policy S13 states "Some uses that fall within Class A2 and A3, despite being by definition for visiting members of the public, are not normally

associated with shopping trips (e.g. betting shops -). These will not normally be permitted in the primary frontages as there is no substantial link between them and shopping "

- 5 PPG6 is also a material consideration, which encourages diversification of uses in town centres. It states at Paragraph 3.18 that local authorities should encourage, through their planning policies and actions, a wide range of facilities in district centres, consistent with the scale and function of the centre.

Reasons

- 6 The Council have advanced some strong policy objections to the proposed use. Their policies make provision for diversification of uses, but they seek to guide betting offices to Secondary Shopping Frontages, in which the appellants' present betting office, No 447 Rayners Lane, is located. Their evidence is that the present percentage of non-retail uses in the Key Frontage is 32.54%, and that if the appeal were to be allowed it would be increased to 33.94%.
- 7 The appeal proposal would undoubtedly conflict with Criterion C of Policy S13. There is a difference of opinion between the parties about Criterion A, whether the service provided by a betting shop is directly related to a shopping trip. In this respect, the review of the Council's policies has not yet been subject to public participation and objection. Moreover, no reasons have been given for their conclusion that betting shops are not normally associated with shopping trips, a conclusion that is not shared by other Local Planning Authorities - the decision letter cited by the appellants dated 3 September 1997 recited that Policy S6 of the Brent UDP identifies a betting shop as a use appropriate to a Primary Shopping Frontage. Further, the Inspector in the decision letter submitted by the appellants dated 13 December 1993 expressed the view that customers of the betting shop proposed would be quite likely to use other facilities in the shopping centre. In my judgement the evidence submitted, reinforced by street surveys undertaken at different times on behalf of the appellants, establishes on the balance of argument that the appeal proposal would not conflict with Criterion A of Policy S13.
- 8 I therefore need to consider whether the appeal proposal would have particular benefits that would outweigh the additional loss of potential retail frontage. I consider that the evidence adduced by and on behalf of the appellants establishes that their present betting shop attracts about the same number of customers as two of the retail units currently trading within the Key Shopping Frontage. I think there is much strength in their arguments that, if permission were to be granted for relocation to the appeal premises, there would be scope for considerable improvements to the facilities provided for the benefit of the customers. These factors undoubtedly influenced the Licensing Magistrates, who granted the appellants' application for a Betting Office Licence on condition that the current licence (in respect of No 447 Rayners Lane) be surrendered.
- 9 Moreover, I have no reason to doubt that the improved and more comfortable facilities proposed would result in a future increase in customer visits - it would make no commercial sense to invest in the proposed improvements if it did not lead to an increased turnover. I consider that the attraction of customers to the appeal premises would result in additional visits by those customers to other shops in the Key Shopping

Frontage, to the benefit of the future vitality and viability of the District Shopping Centre. My conclusion in this respect is reinforced by the fact that the appeal premises have been vacant for nearly 2 years, and I saw on my inspection that there are 2 other vacant shops in the fairly short section of the Key Shopping Frontage between Nos 332 and 374. This part of the shopping frontage would in my opinion benefit from the potential influx of additional customers.

Conclusion

- 10 I have considered all the other matters raised in the written representations, but do not find any of them sufficient to alter the balance of my conclusions that the arguments in favour of the proposal outweigh those advanced against it, and that the proposal would not unacceptably affect the mainly retail function of the District Centre. My findings are that the proposal would comply with the provisions of the development plan, and there is insufficient justification for refusing permission.
- 11 The appellants have offered an undertaking, under Section 106, to ensure that the existing betting office is used only for retail purposes in the future. However, as that unit is located at the extremity of the secondary shopping frontage, and as cessation of the betting office use of those premises will be ensured by the condition of the Licence granted by the Licensing Magistrates, I do not consider the execution of such an undertaking to be necessary.
- 12 I have considered the conditions suggested by the Council, were I to be minded to allow the appeal. Although the second condition suggested has not been challenged on behalf of the appellants, I need to consider it in the light of the advice in Circular 11/95. I think that the condition as suggested is insufficiently precise in its reference to "any residential premises in the vicinity". I shall adapt the wording of the suggested condition accordingly.

Formal Decision

- 13 For the above reasons, and in exercise of the powers transferred to me, I allow this appeal. I hereby grant planning permission for the change of use from retail to betting office of the ground floor, the installation of a new shopfront, air conditioning plant and a satellite dish on the roof, on premises at 354 Rayners Lane, Harrow, Middlesex, in accordance with the terms of planning application Reference WEST/173/00/FUL dated 1 March 2000 and the plan submitted therewith, subject to the following conditions -
 - (i) The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission;
 - (ii) No music or amplified sound originating within the premises shall be audible within any dwelling above the ground floor of Nos 350 to 356 Rayners Lane.

Information

- 14 A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court within 6 weeks from the date of this decision.
- 15 Attention is also drawn to the enclosed note relating to the requirements of the

Chronically Sick and Disabled Persons Act 1970 is amended

- 16 This decision does not convey any permission approval or consent required under any enactment, byelaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990

P/Robert

INSPECTOR

320120843P

320120843P

The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 1404
Tullgate House
Houlton Street
Bristol BS2 9DJ

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A E Watson ARICS DipTP MRTPI
Buttery and Watson
191-195 Praed Street
LONDON W2 1RH

Your Ref:

AEW/1442

Our Ref:

T/APP/R5510/A/95/258479/P7

Date:

13 SEP 1996

Dear Sir

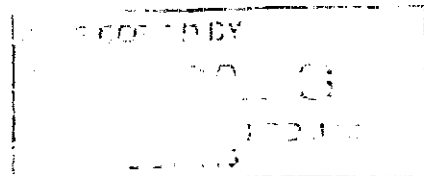
TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY THE WILLIAM HILL ORGANISATION LTD
APPLICATION NO: 32756 B/1054

I have been appointed by the Secretary of State for the Environment to determine this appeal against the failure of the Council of the London Borough of Hillingdon to give within the prescribed period notice of their decision in respect of an application for the use of premises as a licensed betting office at 57 Station Road, Hayes. I held a local inquiry into the appeal on 19 June 1996.

While this is an appeal against non determination, the Council in its Rule 6 statement indicated that, had the applicants not lodged an appeal, the application would have been refused for the reason that the siting of a licensed betting office at this location would fail to complement or support the retail function within the primary shopping area to the detriment of the viability and attractiveness of Hayes town centre. The proposal would therefore be contrary to policies S6 and S8 of the Central Hillingdon Local Plan and policy S13 of the deposit draft of the Unitary Development Plan.

From the representations made at the Inquiry and in writing, and from my inspection of the site and its surroundings, I consider the main issue in this appeal to be the effect of the proposal on the vitality and attractiveness of Hayes town centre, having regard to local and National planning policies.

The Development Plan for the area comprises the Greater London Development Plan 1976 and the Central Hillingdon Local Plan (CHLP) which was adopted in 1990. The Greater London Plan is now outdated. The CHLP defines the primary and secondary shopping areas in Hayes town centre, and relevant shopping policies include S6, which sets out acceptable ground floor uses within primary shopping areas, S7, which sets out acceptable uses in secondary shopping areas, and S8, which lists criteria to be met by acceptable service uses set out in policies S6 and S7.



There are Class A1 retail shops on either side of the appeal site so that the proposal would not concentrate non-retail uses in this part of the shopping area. The Council, in granting the A3 use, confirmed that the loss of this particular A1 retail frontage would be acceptable, and would not harm the attractiveness to shoppers of the town centre. I consider that the loss of the frontage would be no less acceptable in this proposal and that it would therefore comply with CHLP policy S8.

11. The Council has over the years formulated its policy of restricting A2 use to banks and building societies on the basis of shopper surveys which showed, among other things, that very few people intended to visit a betting office during their visit to the town centre. I understand that about 15% of the population regularly gamble and, while the proportion of those who are also shoppers remains open to question, there is clearly a conflict with other independent surveys which show that a high proportion of visits to betting offices include a shopping visit.

12. A prime measure of vitality in a town centre is the number of people attracted to it at different times of the day and evening, available for businesses to attract into shops, restaurants and other facilities. Independent surveys, supported by your own surveys, show convincingly that betting offices attract a considerable number of customers, indeed more than many retail uses. Bearing in mind the long opening hours, and the likelihood that a fair proportion of customers would combine their visit with shopping trips, I consider that this proposal would have the effect of adding to the vitality of the town centre.

13. Another essential element of vitality and attractiveness is diversity. Although the policy of retaining a high proportion of frontages in Class A1 retail use can be justified, there does not seem to me to be the same justification for restricting the smaller proportion of A2 uses to banks and building societies. The Use Classes Order was designed to allow flexibility within this sector, permitting a free interchange within a wide range of services which the public now expects to find in shopping areas.

14. In this respect, I note the Council considered that the change of use of two class A1 retail shops in the primary shopping area to a 'one stop' information office complemented the shopping facilities in Hayes town centre by encouraging people who might not otherwise visit it to do so; they may also be encouraged to carry out their shopping at the same time. The same reasoning in my view can be applied to betting office customers, who might well have more spending power than the disadvantaged groups the Council expects to use the one stop centre.

15. I have had regard to the agreed 12% vacancy rate in the primary shopping area and the fact that the appeal property itself has been vacant for some considerable time. I have also considered the 'fall back' position of the A3 use. From the evidence given I consider there would be little chance of this use being implemented, and that the revitalisation of the primary shopping area would be better served by the proposed A2 use.

16. Over the past few years, betting offices have changed radically. Although the Council may wish to see them restricted to secondary shopping areas, I have little doubt that a modern, well presented establishment with the range of facilities now permitted would attract a significant number of people into the town centre. I am satisfied that a substantial number of them would combine their visit with shopping, thereby complementing the main retail function of the primary shopping area and enhancing its vitality. I therefore conclude that,

taken on its own merits, the proposal would not have an adverse effect on the vitality and attractiveness of the Hayes town centre.

17 I have considered the conditions suggested by the Council in the light of advice in Circular 11/95 'The Use of Conditions in Planning Permissions'. The provision of a noise insulation and ventilation scheme, to protect adjoining residents' quiet enjoyment of their homes, and the requirement for a permanent window display, to preserve the shopping character of the area, I consider to be reasonable and necessary. Conditions to restrict hours of occupation and requiring approval of any external machinery or equipment, or external openings, are also needed to safeguard neighbours from noise nuisance and in the interests of visual amenity. The suggested conditions that noise emitted from such equipment, or that music or amplified sounds, should be inaudible to the nearest dwelling are, in my opinion, unnecessary because those residents' amenities would be protected by the other conditions.

18 I have taken into account all other matters raised, including the Council's initial suggestion that a substantial contribution to the Hayes Opportunities Centre would offset the adverse impact of the proposal on the vitality of the town centre, (which is not a consideration before me) and not least the views of the Hayes Town Centre Residents Association, but find nothing to outweigh my conclusions on the main issue.

19. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the use of premises as a licensed betting office at 57 Station Road, Hayes in accordance with the terms of the application (No 32756 B/1054) dated 6 July 1995 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter;
2. a noise insulation and ventilation scheme shall be submitted to and approved by the local planning authority, implemented before the use hereby approved is commenced and thereafter retained;
3. no external machinery or equipment shall be installed, nor external openings, formed, without the further permission of the local planning authority.
4. a ground floor window display facing Station Road shall be provided and retained at all times;
5. no persons other than staff shall occupy the premises between the hours of 23.30 and 08.00.

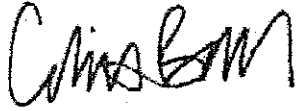
20. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally.

21. The developer's attention is drawn to the enclosed note relating to the requirements of the Building Regulations 1991 with respect to access for disabled people.

320120843P

22. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Colin Ball', written in a cursive style.

Colin Ball DArch(Dist) DArchCons RIBA FRSA
Inspector

APPEARANCES

FOR THE APPELLANT

320120843P

Mr Christopher Cochrane QC

instructed by Gosschalks of Queens
Gardens, Hull

He called:

Mr Allen Watson ARICS
DipTP MRTPI

of Buttery & Watson, Chartered Town
Planning Consultants, 191-195 Praed
Street, London

Mr Cyril Anthony King

of the William Hill Organisation Ltd,
Greenside House, 50 Station Road, Wood
Green, London

FOR THE LOCAL PLANNING AUTHORITY

Mr Jonathan Powell

of Counsel, instructed by R J C Dickinson,
Assistant Borough Solicitor (Land) London
Borough of Hillingdon, Civic Centre,
Uxbridge

He called:

Mr Karl Dafe BA(Hons)

Planning Officer, London Borough of
Hillingdon

DOCUMENTS

- | | |
|------------|--|
| Document 1 | - List of persons present at the Inquiry. |
| Document 2 | - Council's letter of notification of the Inquiry and list of persons notified |
| Document 3 | - Letter of representation. |
| Document 4 | - Appendices to Mr Watson's evidence. |
| Document 5 | - Appendices to Mr Dafe's evidence |
| Document 6 | - Mr Watson's schedule of land use analysis |

Document 7	Letter from Asda Properties Ltd to the William Hill Organisation handed in by Mr King
Document 8	Extract from 'The Independent' 16 May 1996 handed in by Mr King
Document 9	Two design award certificates handed in by Mr King
Document 10	Revised appendix KD2 to Mr Dafe's evidence
Document 11	Revised appendix KD22 to Mr Dafe's evidence
Document 12	Revised appendix KD25 to Mr Dafe's evidence
Document 13	Hayes Town Centre Regeneration Strategy booklet handed in by Mr Dafe
Document 14	Notes of a meeting of the Borough UDP sub-committee handed in by Mr Dafe
Document 15	Report to the Planning sub-committee regarding the change of use of 49 51 Station Road, Hayes handed in by Mr Dafe
Document 16	Copy of the grant of Planning Permission for a betting office at 32 36 Station Road, Hayes handed in by Mr Dafe

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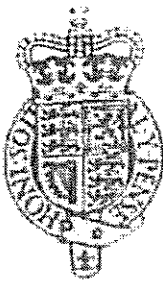
PLANS

Plan A	Application plans PROV/LS/RS/011800/01 showing the existing layout and APPD/LS/RS/011800/02A showing the the proposed layout of 57 Station Road, Hayes
Plan B	Mr Watson's plan 1442
Plan C	Mr Watson's revised plan 1442/A
Plan D	Mr King's plan SU/290795/02
Plan E	Mr King's plan APPD/LS/RS/011800/02B
Plan F	Revised plan appendix KD1 to Mr Dafe's evidence
Plan G	Appeal plan KD1A handed in by Mr Dafe

PHOTOGRAPHS

Photo 1	Mr King's book of photographs CAK1
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320120843P



Appeal Decision

Inquiry held on 05 September 2006

Site visit made on 05 September 2006

by S.J. Emerson BSc DipTP MRTPI

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

The Planning Inspector
411 Eagle Wing
Temple Quay House
27 The Quay
Temple Quay
Bristol BS1 6PQ
Tel 0117 372 8372
e-mail: enquiries@planning
inspectorate.gov.uk

Date:

10 OCT 2006

Appeal Ref: APP/X0360/A/05/1188963

147 Crockhamwell Road, Woodley, Reading RG4 5JP

- 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 Ladbrokes Ltd against the decision of Wokingham District Council
- The application Ref F/2005/4440, dated 5 April 2005, was refused by notice dated 13 June 2005
- The development proposed is the change of use from A1 (retail) to A2 (betting office)

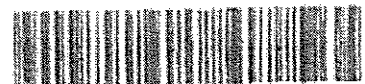
Summary of Decision: The appeal is dismissed.

Main Issue

- 1 I consider that the main issue is the effect of the development on the vitality and viability of Woodley town centre

Planning Policy

- 2 The development plan includes the Berkshire Structure Plan 2005 and the Wokingham District Local Plan 2004. The site lies within a secondary shopping frontage defined in the local plan. At the inquiry all parties focussed on the application of policies WSH5 and WSH7 to the appeal proposal. I consider that these are the most relevant policies in this case.
- 3 Policy WSH5 lists 12 factors to be taken into account in determining changes of use from A1 to non-retail uses. Policy WSH7 is intended to assist in the application of policy WSH5 to secondary shopping frontages. Changes of use from A1 to A2 are considered *acceptable in principle where the proportion of retail uses is sufficient to sustain a predominantly retail function and character in the frontage*. There was disagreement between the main parties as to how to interpret this phrase. I consider, firstly, that *retail use* must mean premises which are within class A1 and, secondly, that a *predominantly retail function and character in the frontage* means that the impression of the continuous parade the subject of assessment is of retail (A1) use not being subservient to other uses. This will usually often be best assessed in relation to the proportion of units, frontage lengths and floorspace, whilst having regard to the overall characteristics of the parade and of any factors which might alter the public impression of the balance between retail and other uses.
- 4 In assessing the potential contribution of the proposed use to the vitality and viability of the centre I accept that it will be relevant to take into account the extent to which a modern betting office presents elements of a retail character and function. But I do not regard a betting office as synonymous with a retail use, as suggested by the appellant.



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Reasons

- 5 The appeal property is currently trading as a car parts shop. It is located towards the northern end of Woodley town centre. Crickhamwell Road is pedestrianised for the whole length of the primary and secondary frontages. In terms of physical layout, there is little to distinguish between the primary and secondary frontages but beyond the secondary frontages there is an abrupt change in both physical layout and land use with open car parks serving the town centre and conventional housing (and a few small commercial premises on the northern side of Headley Road). Compared with many town centres, Woodley is clearly defined and its extent is readily perceived by the first time visitor. There is little transitional area of mixed uses around the edge of the centre. The appeal premise is towards the centre of a parade which extends between Nos 131 (Natwest Bank) and 155 (a dental practice) which is the last unit at the end of the pedestrianised street. The next but one unit to the north of the appeal premises is a betting office - Cowan the Bookmaker.
- 6 All parties relied on the calculations of floorspace and frontage length which had been prepared by the Council (with some corrections made by the appellant). If the appeal were to be allowed the proportion of retail units within the parade, the proportion of retail frontages and of floorspace would all be less than half. In my view, these proportions fairly represent what would be the public impression of the mix of uses in the parade, since there is nothing in the physical layout of the parade or of the appeal premises which would give a different impression to that portrayed in the figures. The most prominent unit in the parade is the Natwest Bank, which has a return frontage on the corner of the parade. Thus the number and size of retail units in the rest of the parade are particularly important in maintaining the retail function and character of the parade.
- 7 I accept that a modern betting office would have an attractive open frontage which would be at least of comparable interest to passers-by as the existing shop and other low key retail uses. But I do not see this similarity as giving the proposed use an essentially retail function and character. In my view, with materially less than half of the units, floorspace and frontage length in retail use, the proposed change would not sustain a predominantly retail function and character in the frontage and thus conflicts with the aim of policy WSH7.
- 8 I now turn to the factors listed in policy WSH5. The proposed use is one which provides a service/recreational benefit to the public and is therefore appropriate in a town centre, which is consistent with its inclusion in class A2 (factor A). There is no evidence that the use, properly managed, would result in disturbance to adjoining uses (factor D). An elevation of the proposed new shopfront was not included on the application drawing, but subject to control of the design of the new shopfront, which could be secured by condition, no adverse visual impact would arise (factor K). I have grouped the other factors in the policy in relation to the main areas of contention.
- 9 The appellant submitted evidence from surveys of existing betting offices which demonstrate that betting offices consistently attract considerably more people than the retail premises on either side of them. I recognise that the local circumstances of these premises may be very different from Woodley but since the surveys are only comparing the level of trade between a betting office and the adjoining shops, I consider that local circumstances are fairly reflected. Furthermore, a survey of Cowan the Bookmaker and the adjoining premises demonstrated a similar difference in the number of visitors. I consider that these surveys are credible evidence that betting offices normally attract a high level of activity.

and would often increase rather than decrease pedestrian flows where they are introduced. But a key question in this case is whether given the existing betting office only 2 doors away, another betting office would have such a positive effect.

- 10 Competition between commercial operators is not a planning matter and the licensing regime considers whether there is adequate demand but in considering the effect on vitality I need to judge the likely change in the number of people attracted to this parade. The appellants accept that with 2 betting offices in the parade, the overall number of visitors attracted to them would not be double those currently attracted to Cowan, but suggest that the existing number would not simply be split between the 2 premises. In their view, significant additional trade would be generated. I accept that some additional custom would be generated, but I see no reason why this would be considerable. It was generally agreed that Cowan the Bookmaker is a modern, well run establishment. Although it may be busy, there is no evidence to indicate that many potential customers are in some way put off from visiting. I accept that the proposed betting office would attract more customers than the existing shop, but many of those would have been visiting the parade in any case, having previously gone to Cowan. I consider that the proposal would not reduce overall activity and flows could have a relatively neutral effect or might result in a very modest increase. Thus in relation to factors B (part) and H there is not an adverse conclusion, but neither is there the strongly positive assessment that might apply in other locations. Apart from increasing choice between betting offices the proposal would not increase the range of services and activities on offer in the town centre.
- 11 I turn now to physical factors about the unit. The appeal premises are centrally located in the parade, the unit has a modest frontage and is the smaller type of unit within the parade. There is nothing in its physical attributes to make it unsuited to the proposed use or which make it especially desirable to retain in retail use. Thus in terms of factors D and E there is no adverse conclusion to be drawn. The proposed betting office would have retail units on either side. In my view, an adverse clustering of non-retail units would not occur (factor F).
- 12 Factor G concerns retailer representation and is defined in the policy as major high street comparison retailers. There is no adverse conclusion to be drawn in relation to this factor. I accept that Ladbrokes' proposal would represent investment in the town centre by a national chain with a long term commitment to the location and be an attractive tenant for the landlord. Factor J is long term vacancy levels. It was generally agreed that vacancy levels are low and that there is considerable interest in units in the town centre. This is an indication of a robust and viable town centre. Unlike many circumstances where a change from A1 is proposed, the existing premises are still in retail use rather than vacant. Even if the existing use were to cease, it is unlikely that the unit would remain empty for long.
- 13 I recognise that in principle, a secondary rather than a primary frontage is the best location for non retail use (factor C) but the acceptability of the change within this particular secondary frontage needs to be considered in the context of my conclusion in relation to policy WSH7. I recognise that given my interpretation of policy WSH7 there may be limited scope for further non retail uses in the centre. In part this is a function of its design and layout with little periphery. I also recognise that there is probably scope for some further change from retail to non retail in the primary frontage, because policy WSH6 allows up to 20% to be in non retail use which has not yet been reached. But that does not

weigh in favour of allowing the appeal, since other non retail uses may still seek to be located in the primary frontage

- 14 Factor L is the effect on the vitality and viability of the street and the shopping centre as a whole, which is my overall issue. In assessing all the other factors in policy WSH5 I have found no clear adverse impact other than the conflict with policy WSH7, but equally no clear benefit. In my view, I need to give considerable weight to the conflict with WSH7 given that one of the aims of policy WSH5 is to maintain and enhance the essential retail character of the centre. Having taken into account all the factors in WSH5, I conclude, on balance, that the proposal would result in a modest but material loss of that retail character. In the absence of any clear benefits which outweigh this harm, I consider that the vitality and viability of the shopping centre would be eroded.

Conclusions

- 15 For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

- 16 I dismiss the appeal.

Simon Emerson

INSPECTOR

APPEARANCES

320120843P

FOR THE LOCAL PLANNING AUTHORITY

Mr A Williams, of Counsel	Instructed by the District Solicitor
He called	
Mrs J Jackson BSc MRTPI	Principal Planning Officer, Wokingham District Council

FOR THE APPELLANT

Mr A Williamson, Solicitor	Walker Morris Kings Court, Leeds
He called	
Mr R Raper BA DipTP MRTPI	Managing Director, Richard Raper Planning Ltd Headingley, Leeds

INTERESTED PERSONS

Mr S Sands PGDipTP MRTPI	PASS Consultants Hailsham
MRICS	
Mr M Story	Ward Councillor, WDC

DOCUMENTS

Document 1	Council's letter of notification of the appeal and of the Inquiry
Document 2	Letters of representation
Document 3	Agreed condition regarding shopfront design and display

PHOTOGRAPHS

Photo 1	Ladbroke's shopfront in Batham
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Appeal Decision

320120843P

Site visit made on 29 February 2012

by **S R G Baird BA(Hons) MRTPI**

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

Decision date: 3 April 2012

Appeal Ref: APP/D2510/A/11/2166516

54 Lumley Road, Skegness, Lincolnshire PE25 3NG

- 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 Lloyds Banking Group against the decision of East Lindsey District Council.
- The application Ref S/153/01537/11, dated 16 August 2011, was refused by notice dated 19 October 2011.
- The development proposed is a change of use from vacant A1 (retail) to A2 (financial and professional services).

Decision

1. The appeal is allowed and planning permission is granted for a change of use from vacant A1 (retail) to A2 (financial and professional services) at 54 Lumley Road, Skegness, Lincolnshire PE25 3NG in accordance with the terms of the application, Ref S/153/01537/11, dated 16 August 2011, subject to the condition that the development hereby permitted shall begin not later than 3 years from the date of this decision.

Main Issue

2. The effect on the vitality and viability on Skegness town centre

Reasons

3. The development plan includes the East Lindsey Local Plan. The appeal premises are located within a protected shopping frontage where a change of use that would result in the loss of a shopping use will not be permitted (Policy S4). The supporting text indicates that "*only where special advantage could accrue to the vitality or viability of the town centre as a direct result of a change from a shopping use would an exception to the policy be considered*". Neither the policy nor its supporting text gives an indication of what might constitute a "special advantage" rather it appears to be a consideration left to the decision maker.
4. Whilst the policy refers to a protected frontage and these are defined on the Proposals Map for Skegness town centre, the supporting text also refers to "primary shopping frontages". However, the policy makes no distinction between primary and protected frontages nor does the Proposals Map identify primary frontages. The supporting text to the policy suggests that the Council's concern principally relates to the accumulation of non-A1 uses within a primary frontage, because of their scale, having an adverse effect on vitality

and viability. In the context in which it is used, I read the reference "scale" to reflect the number and concentration of non-A1 uses.

5. Lumley Road is one of the main shopping/commercial streets within the town centre and at the time of my visit, which was outside the main holiday season, exhibited high pedestrian flows. As a seaside resort, I have no doubt that at other times pedestrian flows are higher. Although the centre appeared vital and viable, it struck me from both my own observations and the evidence before me that the number of vacancies appeared to have risen, particularly since the Council commissioned a Retail Impact Assessment in 2008.
6. In terms of pedestrian footfall, in my experience and as the appellant's submissions show, generally Class A2 uses can and do attract as much and, in some cases, more comings and goings as do retail premises. The fact that Skegness is a seaside resort does not invalidate the conclusions that can be drawn from the submitted material. Moreover, the comings and goings generally form part of linked trips to other town centre uses. In this context, the proposed use would maintain the levels of pedestrian flows within this part of the town centre. Although the premises were previously occupied by a Charity Shop it is clear that this was no more than an interim arrangement whilst a new tenant was found. The evidence indicates that despite vigorous marketing and a substantial reduction in the rent (25%) the owners have been unable to generate retail interest in the unit. Given the number of other vacant premises in the area and the current economic situation, I do not see that this situation would materially change if the owner continued to reduce the rent.
7. In terms of the number and location of non-retail uses within the Lumley Road frontages, to allow the proposal would not result in a noticeable over-concentration of such units within the immediate area of the appeal site or a dominance of this type of unit within the street as a whole. Thus, the perception of Lumley Road as a retail dominated street would be retained.
8. Reference is made to potential alternatives by the Council. These include a former Halifax Estate Agency and the Lloyds Bank premises both on Roman Bank, a vacant unit within the Hildreds Centre and 2 units towards the eastern end of Lumley Road. From the information supplied, I am satisfied that for physical and legal reasons neither of the Roman Bank units can be considered reasonable alternatives. The unit within the Hildreds Centre is not covered by the protected frontage designation and the appellant is expected, by national guidance¹ to show some flexibility in terms of unit size. However, it is clear from the sales particulars that the vacant unit is well below the size of unit required by the appellant. Whilst the 2 units towards the eastern end of Lumley Road are within the appellant's size requirements, they are also covered by the protected frontage designation. As I read the policy, there is no distinction between particular protected frontages and as such, to occupy these premises the appellant would have to meet the "special advantage" test.

Conclusion

9. In light of the above, I conclude that the proposed change of use would not unacceptably affect the vitality and viability of Lumley Road and the town centre as a whole. Moreover, the bringing back into use of a unit that has remained empty for a significant period along with the consequent

¹ Paragraph 6.27 Planning for Town Centres – Practice Guidance on need, impact and the sequential approach.

improvement in employment opportunity would represent a special advantage and contribute to the vitality and viability of Skegness Town Centre. Accordingly, the proposal would not conflict with objective of development plan policy.

Conditions

10. In addition to the standard time limit for commencement, the Council suggest a condition requiring details of the proposed frontage alterations. Given that planning permission would be required for alterations to the shop front, I consider a condition along these lines is unnecessary.

George Baird

INSPECTOR