



## Appeal Decision

Site visit made on 14 July 2020

**by Edwin Maund BA (Hons) MSc Dip UP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> August 2020**

**Appeal Ref: APP/F4410/W/20/3250246**

**37-39 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 Praesepe Holdings Ltd against the decision of Doncaster Metropolitan Borough Council.
- The application Ref 19/02976/COU, dated 6 December 2019, was refused by notice dated 3 February 2020.
- The development proposed is Change of use of the ground and first floors to adult gaming and amusement centre with bingo (Sui Generis) at ground floor and ancillary staff area at first floor.

### **Decision**

1. The appeal is allowed and planning permission is granted for the change of use of the ground and first floors to adult gaming and amusement centre with bingo (Sui Generis) at ground floor and ancillary staff area at first floor at 37-39 St Sepulchre Gate, Doncaster DN1 1TD, in accordance with the terms of the application, Ref 19/02976/COU, dated 6 December 2019 subject to the conditions set out in the schedule attached to this decision notice.

### **Procedural Matters**

2. The Council in determining the application refused it on the basis of the current development plan, but in setting out their case in support of the appeal have made reference to the Emerging Local Plan. The Examination into the Local Plan is at a relatively early stage, and it is too early in the process to know what modifications may be made as the Examination hearings have yet to commence. In these circumstances, and in accordance with Paragraph 48 of the Framework, I consider only moderate weight can be given to the Emerging Local Plan and I have determined the appeal on this basis.

### **Main Issues**

3. The main issues are;
  - The effect of the proposal on the vitality and viability of the Doncaster town centre and primary shopping frontage; and
  - The effect of the proposal on the health and wellbeing of residents living in the Town Ward of Doncaster.

## **Reasons**

### *Vitality and Viability*

4. The appeal property is a vacant shop unit on the eastern side of St Sepulchre Gate within the designated primary shopping frontage of Doncaster town centre. Located on a pedestrianised street, at the time I visited, early afternoon, mid-week, the centre was busy, and footfall was apparent in all directions, despite some ongoing restrictions due to Covid-19. I recognise this is just a snapshot in time, but from my observations the location appeared to be a healthy town centre shopping area.
5. A small number of premises were vacant, including the appeal site, nevertheless there was a good range of shops including national retail chains and other ancillary services which you would expect to find in a town centre location.
6. Along the same side of St Sepulchre Gate between High Street and Printing Office Street, I was able to view that despite being highlighted as a primary shopping frontage, this side of the road is broadly a 50/50 split between retail and non-retail uses, with several banks, two betting shops, and two cafes. With the appeal premises located between a betting shop and a café.
7. Policy TC6 of the Doncaster Unitary Development Plan (UDP) (1998) seeks to retain the predominant retail function of these frontages but supports the change from retail where that use contributes to the vitality and viability of the centre and does not seriously disrupt the continuity of the shopping frontage.
8. Policies CS7 and CS8 of the Doncaster Core Strategy (CS) (2012) highlight the importance of Doncaster town centre as the sub regional centre, sub criteria B) of CS7 advises that the vitality and viability of the borough's centres will be enhanced, by in part widening the range of uses and encouraging service and employment facilities to meet the day to day needs of residents.
9. I have been provided with information in respect of how the property has been marketed since October 2018, but this does not include whether the price sought reflected a realistic value in the current economic climate, nevertheless what information I do have is indicative of some of the challenges facing town centres and the retail sector.
10. I am also mindful of the forthcoming changes to the Use Classes Order that will come into effect on 1 September 2020 allowing greater flexibility for changes of use from retail within town centres. While this would not directly affect this proposal as the proposed use is *sui generis* it is a material consideration in respect of how it would affect the current policy and in particular the aims of retaining primary retail frontages.
11. The use proposed would comply with the aims of this policy by supporting the vitality and viability of the town centre and bring a vacant unit back into use, facilitating a use which could add to the footfall and increase the opportunity for shared trips. It would also add to the evening economy being a use that would be open up to 24 hours, and also subsequently increase employment opportunities.
12. The Council consider that the proposal would be in conflict with the Emerging Local Plan policy 24. I do not agree, the proposal is for none of the exclusions

identified in that it is adult gaming and amusement centre with bingo, not a betting shop, pay day loan unit or pawnbrokers. Even, if I were to agree with the Council's interpretation of the supporting text, the appellant has marketed this vacant property for in excess of 12 months with no success. The appeal proposes having an occupier within the building where there is an opportunity for additional footfall, and it would not result in a cluster or concentration of such uses, being the only such use in this immediate area.

13. In summary, I do not consider that the proposed use would be in conflict with policy TC6 of the UDP, or CS7 and CS8 of the CS which seek to ensure amongst other things, to maintain the vitality and viability of the town centre.

#### *Health and wellbeing*

14. The appeal site is located within Doncaster Town Ward. The Council identify that it is an area of deprivation relative to Doncaster Borough as a whole and Doncaster itself is relatively deprived. The Ward the Council consider has an over representation of residents that are susceptible to problem gambling, as such the appeal if allowed would exacerbate the situation and consequently have an adverse effect on public health.
15. Conversely, the updated report '*Gambling: An Evidence Briefing Paper for Doncaster*' accepts that there is a lack of robust evidence concerning problem gambling; and there is limited local data for Doncaster itself. Nor does it correlate that the proximity of a gambling establishment within a close proximity to residents' results in additional problem gambling.
16. There is an estimate that 1 in 90 adults in the UK are problem gamblers, with no further information on how this differs locally, if at all, or how, should the appeal be allowed, this might make matters worse, I do not agree therefore that the argument presented can be given significant weight, or that there is a clear link between the proposed use of the site and the concerns the Council identify.
17. I do not consider therefore that the proposal would adversely affect the health and wellbeing of residents in the Town Ward of Doncaster. I do not consider therefore that this would lead to a conflict with either the Framework or the Emerging Local Plan policy 51.

#### **Other Matters**

18. The site is located within the Doncaster High Street Conservation Area there is a duty therefore to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The effect on the Conservation Area has not been raised as an area of concern by the Council as no changes are proposed to the external façade of the building and a shop window display has been confirmed to be retained which can be controlled by a suitable condition, I consider the duty to preserve the Conservation Area would be achieved.
19. The appellant has pointed me towards their social responsibility policy, which is to be welcomed but it is not something which could be enforced through planning conditions so can be given limited weight in determining the appeal.
20. I have been referred to a series of other appeal decisions which were allowed relating to changes of use from retail (A1) to Adult Gaming Centres (Sui

Generis) in Croydon<sup>1</sup>, Eastwood<sup>2</sup>, and Hull<sup>3</sup>. Given that each of these appeals were in different localities and had differing policy backgrounds I do not draw significant conclusions from them and therefore they do not carry significant weight in my decision.

## **Conditions**

21. I have considered the planning conditions that have been suggested by the Council 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.
22. 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 area and to preserve the character and appearance of the conservation area.  
I have not imposed the condition limiting opening hours as this is a town centre site in a sub-regional centre where late night activities could be expected.

## **Conclusions**

23. The appeal is allowed.

*Edwin Maund*

INSPECTOR

## **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 000-EX-01, 000-DR-01.
- 3) A shop window display in all ground floor windows fronting St Sepulchre Gate shall be installed before the use commences and retained for the lifetime of the use.

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<sup>1</sup> Appeal Reference APP/L5240/W/19/3232831

<sup>2</sup> Appeal Reference APP/J3015/W/18/3212670

<sup>3</sup> Appeal Reference APP/V2004/W/19/3233244