

8. Appeal decisions

The following list summarises relevant Planning Inspectorate findings in appeals on a number of recent change of use applications and where local policy protects retail use. This is not an exhaustive list.

All parts in *italics* are quoted verbatim from the appeal decision.

Copies of the complete appeal decision documents will be provided on request.

Appeal Ref: 3271781 Basement and Ground floor, 74 Queensway, London W2 3RL - 9/11/2021

Future Leisure v Westminster. CoU from betting to AGC

Para 11: As the proposal would change an existing non-retail use into another non-retail use there would be no change in the proportion of sui generis uses within the street frontage. Moreover, there are no other amusement centres or betting shops in the stretch of frontage containing the appeal site and there is no evidence that the proposal would lead to an over-concentration of such uses.

Appeal Ref: 3328090 214 Station Road, The Hale, Barnet, Edgware HA8 7AR - 12 June 2024

Chongie v Barnet. CoU from sui generis restaurant/takeaway to AGC

Para 8: The appeal seeks to convert the ground floor to an adult gaming centre (AGC). Policy DM11 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) seeks to support the continued vitality and viability of town centres and avoid retail uses falling below 75% and the over-concentration of similar uses which detract from the retail function of the town centre. Given the current use, the proposal would not result in the loss of a unit in retail use.

Appeal Ref: 3256275 Ground floor, 10-12 Chapel Street, Luton LU1 2SE - 29/12/2024

East Kent Leasing Ltd v Luton. CoU from betting to AGC

Para 6: ... Amusement centres and betting shops, for that matter, are an established part of high streets and shopping centres across the country and complement their retail function. There are no other amusement centres along Chapel Street. The betting shops and amusement centre are located on George Street. Due to the low total number of such uses and the presence of intervening uses, gambling facilities do not dominate the centre as a whole. Nor would the proposed use result in a cluster or concentration of such uses in the area. I am also mindful that the previous use of the premises was a betting shop therefore there would be no overall increase in the total number of such uses.

Appeal Ref: 3260036 448-454 High Road, Tottenham, London N17 9JN - 22/3/2021

City Gaming v Haringey. CoU A2 from financial to AGC (an adjacent smaller part of the total site was CoU from retail to coffee/cake shop)

Para 6: ...As it was not a retail use the Adult Gaming Centre (AGC) (a Sui Generis use) would not result in a greater degree of conflict with the percentage threshold for non-retail uses in DM42A)a) or consecutive nonretail uses in criteria b) of DM42A...

Appeal Ref: 3266795 182-184 Edgware Road, London W2 2DS - 30/09/2021

Cashino v Westminster. CoU from betting to AGC

Para 4: I understand the Council's desire for units to benefit from the flexibility provided by Class E1 uses. However, as the proposed sui generis use would replace an existing sui generis use, there would be no disadvantage to the viability of the area in terms of flexibility of change of use. In any event, the Council would retain the power to deal with any change of use with flexibility in considering any future planning application.

Appeal Ref: 3270129 48 Golders Green Road, Golders Green, London NW11 8LL - 5/11/2021

Cashino v Barnet. CoU Estate Agent to AGC

Para 10: ...I note that the policy is designed to prevent the loss of shops which, given the previous use was an estate agent, would not be the case here.

Appeal Ref: 3307485 133 High Street, Waltham Forest, Walthamstow E17 7DB - 21 July 2023

Chongie v Waltham Forest. CoU from betting to AGC

Para 6: ...Although vacant, the current lawful use of the site is a betting shop and the proposed change to an AGC would not increase the number of non-retail uses in the frontage, such that there would be no change from the current situation...

The following pre-date the introduction of Class E. Again this is not an exhaustive list.

Appeal Ref: 3189944 9A Walm Lane, Willesden Green, London NW2 5SJ - 27/2/2018

Future Leisure v Brent. Proposal is CoU from pay day loans to AGC.

Para 8: "As the previous use and proposed use are both sui generis, there would be no reduction in the proportion of frontage in A1 or A2 use."

Appeal Ref: 3191347 92 Lewisham High Street, Lewisham SE13 5JH - 28/8/2018

GT Promotions v Lewisham.. CoU from payday loans to AGC

Para 8: ...In any event, I note that criterion 1 is designed to prevent the loss of ground floor level shops which, given the current sui generis use, would not be the case here.