

LOCATION: Plot 299, 128 Colindale Avenue, London, NW9 4AX

REFERENCE: 17/2248/FUL **Registered:** 06/04/2017

WARD: Colindale

APPLICANT: Planning Potential Ltd

PROPOSAL: Change of use of 97sqm of Plot 299 of 128 Colindale Avenue from flexible A1/A2/A3 use to a betting shop (Sui Generis use)

Recommendation

Determine

Report Back

Members will recall that this application was recommended for approval at Planning Committee on Thursday 28th September. The Committee determined to defer the decision, with a 'Minded to Refuse' recommendation in order for a report to be prepared outlining the Reasons for Refusal. Members are asked to consider the accompanying commentary make a final decision on the scheme.

The main areas of concern raised by Members of the Committee were as follows:

- Proposal goes against originally approved flexible A1/A2/A3 use;
- The absence of a marketing strategy for alternative uses as part of the application submission;
- Noise and disturbance resulting from the proposed use on nearby residential properties;
- Anti-social behaviour directly resulting from the proposed use; and
- A betting shop cannot be used by all members of the community.

Each of these areas of concern is responded to below by officers and relevant reasons for refusal are provided.

Proposal going against the original use

Members raised concerns that the proposed change of use would conflict against the flexible A1/A2/A3 use of this unit, as approved under outline application H/05856/13. Particular reference was made to Condition 9 of this permission which states:

Upon their first occupation, the commercial units on the ground floor of the buildings hereby approved shall be occupied for uses falling within Class A1, A2, A3 or D1 of the Town and Country Planning (Use Classes) Order 1987 and for no other purpose.

Reason:

To enable flexibility for the first occupation of the commercial units hereby approved, in accordance with policies DM12 and DM13 of the Barnet Local Plan.

Although the proposal is resulting in a change of use, it should be noted that when the application was approved betting shops did fall within the A2 use class. Application H/05856/13 was recommended for approval by planning officers and

approved by Members of the Planning Committee in the knowledge that a betting shop could occupy this unit. Application H/05856/13 was approved with no conditions attached to the permission restricting the occupation of this unit by a betting shop.

There is no restriction on the change of use of units within the original approval for this site, as long as the appropriate application process has been made. In addition, there are no policies which specifically restrict betting shop uses in this area.

Given the above, Planning Officers advise that the following Reason for Refusal is not progressed. If members are minded to refuse on this ground, please see the below reason for refusal:

The proposed sui generis use would fail to comply with the previously approved flexible A1/A2/A3 use, contrary to DM12 of Development Management Policies DPD (adopted September 2012).

The absence of a marketing strategy

Councillors noted at committee that no evidence of a marketing strategy was submitted with the application.

The existing unit is for flexible A1, A2 and A3 uses. The unit in question is not currently occupied by an A1 use. The need for marketing evidence is only required for an A1 use as there are no policy requirements for marketing evidence of A2 and A3 uses.

Officers consider that a marketing strategy is not required. However, if Members are minded to refuse on this ground, please see the refusal wording below:

The proposal has failed to provide evidence of effective marketing of an A1 use or any of the other uses previously approved under application H/05856/13 for this unit or any of the other units within the 128 Colindale Avenue parade contrary to part iv of policy DM12 of Development Management Policies DPD (adopted September 2012).

Noise and disturbance resulting from the proposed use

Councillors raised concerns that the proposed use would result in noise and disturbance, especially during evenings, which would detrimentally impact the amenities of neighbouring occupiers, including residential units above the premises. A condition was included in the original committee report restricting the hours of opening of the premises to 8am-10pm Monday to Saturday and 9am-9pm on Sundays and bank holidays. The Local Planning Authority considers this sufficient restriction of opening hours to mitigate against disturbance to local residents. It should be noted that betting shops are often located in town centre locations, with residential units above and adjoining betting premises. Furthermore, as stated in the committee report, there are a number of units in the local area which are open late at night. This includes a number of nearby units as listed below, as well as the Co-op which was granted consent at the same meeting to extend the opening hours to 7am-11pm Mon-Sat and 10am-11pm Sun (planning reference: 17/4788/S73).

Sainsbury's Local: 14 Charcot Rod, NW9 5WU; open daily 7am-11pm

Spaccanapoli restaurant: 5 Charcot Road, NW9 5HG; open 9:30am-10:30pm Mon-Thurs, 9am-11pm Fri-Sat, 9am-10pm Sun

Tesco Express: 8 Heritage Avenue, NW9 5AA; open daily 6am-11pm

The Beaufort Pub and Dining: 2 Heritage Avenue, NW9 5AA; open daily 11am-11pm

Colindale Local: 189 Colindale Avenue, NW9 5HY, open 6am-11pm Mon-Fri, 7am-11pm Sat-Sun

Colindale Underground station is also open 5.15am-1am and additionally now throughout Friday and Saturday nights.

It should be noted that all the premises listed above are open later than the proposed betting shop. These are also all located in close proximity to high density residential developments.

The Council's Environmental Health team have confirmed that it is very rare to receive complaints about noise from betting shop units. The few complaints which have been received are primarily due to the use of air conditioning units. This can be controlled by a condition.

The Environmental Health Team and Planning Officers advise against refusing the application on the grounds of noise and disturbance. If Members are still minded to refuse on this ground, please see the reason for refusal below:

The proposed change of use will result in noise and disturbance to nearby residential amenities, in particular residential units of 128 Colindale Avenue, contrary to policy 7.15B (parts a and b) of the London Plan (2016) and part d of policy DM04 of Development Management Policies DPD (adopted September 2012).

Anti-social behaviour

Members raised concerns at Committee that anti-social behaviour could result from the proposed use of the premises.

The committee report details that this is a licensing issue. Both licensing and planning permission is required for a betting shop to operate. In the event that anti-social behaviour directly results from the betting shop or the use is managed contrary to its licence (e.g. serving people under 18), then enforcement action can be carried out and its licence revoked. If this occurs, even if the premises still has planning permission for a betting shop use, it cannot be run as a betting shop as its licence has been revoked.

As anti-social behaviour is not a planning matter, Planning Officers advise against this being used as a reason for refusal. In the event that Members do seek to refuse the application on this ground, please see suggested wording below:

The proposed betting shop would result in anti-social behaviour which would have a detrimental impact on the amenities of local residential occupiers, contrary to policy 7.3B of the London plan policy (2016), part d of policy DM01 of Development Management Policies DPD (adopted September 2012) and CS12 of Local Plan Core Strategy DPD (adopted September 2012).

Betting shop cannot be used by all members of the community

There are a range of potential occupiers of A1/A2/A3 uses which would not serve all members of the community, for example estate agents. Therefore, Officers would advise against using this reason for refusal. In the event Members are minded to refuse this application on this ground, please see the reason for refusal below:

The proposed betting shop would not be usable to all members of the local community and would therefore fail to comply with policy CS6 of the Local Plan Core Strategy DPD (adopted September 2012).

Consultation response

Subsequent to the last committee (28th September 2017) 4 additional objections have been received. The additional comments put forward by these letters reflect those already considered by Committee. As such, these are not being listed in detail as the purpose of this report is to consider reasons for refusal following members' decision to defer the decision in mind to refuse. The new responses have been appended for Members' reference.

APPENDIX 1: COMMITTEE REPORT (reported to planning committee 28/09/17)

LOCATION: Plot 299, 128 Colindale Avenue, London, NW9 4AX
REFERENCE: 17/2248/FUL **Registered:** 06/04/2017
WARD: Colindale
APPLICANT: Planning Potential Ltd
PROPOSAL: Change of use of 97sqm of Plot 299 of 128 Colindale Avenue from flexible A1/A2/A3 use to a betting shop (Sui Generis use)

Recommendation

Approve subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 15817-11; 15817-10; Planning Statement: Plot 299, 128 Colindale Avenue, NW9 4AX.

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2) This development must be commenced within three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

- 3) The use hereby permitted shall not be open to members of the public before 08:00am or after 10:00pm on weekdays and Saturdays or before 09:00am or after 09:00pm on Sundays and Bank and Public Holidays.

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

- 4) Before the development hereby permitted is first occupied, the name and contact number of manager shall be displayed on the outside of the building.

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

- 5) None of the windows of the development hereby permitted shall be obscure glazed.

Reason: To safeguard the amenities of occupiers of adjoining residential

properties.

6) a) No development shall take place until a scheme of hard and soft landscaping to the front of this unit, including details of planting heights, densities and positions of any soft landscaping, has been submitted to and agreed in writing by the Local Planning Authority.

b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.

c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

7) a) Before the development hereby permitted is first occupied, details of CCTV to be installed shall be submitted to and approved in writing by the Local Planning Authority.

b) The CCTV shall be installed in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure the amenity of existing and future residents is not compromised in accordance with policies DM01 and DM02 of the Development Management Policies DPD (adopted September 2012), the Residential Design Guidance SPD (adopted April 2013) and the Sustainable Design and Construction SPD (adopted April 2016)

MATERIAL CONSIDERATIONS

Key Relevant Planning Policy

Introduction

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that development proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan is The London Plan and the development plan documents in the Barnet Local Plan. These statutory development plans are the main policy basis for the consideration of this planning application.

Barnet's Local Plan is made up of a suite of documents, including the Core Strategy and Development Management Policies development plan documents. The Core Strategy and Development Management Policies documents were both adopted by the Council in September 2012.

A number of other planning documents, including the National Planning Policy Framework and supplementary planning guidance are also material to the determination of this application.

More detail on the policy framework relevant to the determination of this development and an appraisal of the proposal against the development plan policies of most relevance to the application is set out in subsequent sections of this report dealing with specific policy and topic areas. This is not repeated here.

The London Plan

The London Plan (2016) is the development plan in terms of strategic planning policy for the purposes of the Planning and Compulsory Purchase Act (2004). The London Plan policies (arranged by chapter) most relevant to the determination of this application are:

Context and Strategy

1.1 (Delivering the Strategic Vision and Objectives for London)

London's Places:

2.6 (Outer London: Vision and Strategy); 2.7 (Outer London: Economy); 2.8 (Outer London: Transport); 2.15 (Town Centres); and 2.18 (Green Infrastructure: the Network of Open and Green Spaces)

London's People:

3.1 (Ensuring Equal Life Chances for All); 3.2 (Improving Health and Addressing Health Inequalities); 3.3 (Increasing Housing Supply); 3.4 (Optimising Housing Potential); 3.5 (Quality and Design of Housing Developments); 3.6 (Children and Young People's Play and Informal Recreation Facilities); 3.8 (Housing Choice); 3.9 (Mixed and Balanced Communities); 3.10 (Definition of Affordable Housing); 3.11 (Affordable Housing Targets); 3.12 (Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes) and 3.13 (Affordable Housing Thresholds).

London's Economy:

4.1 (Developing London's Economy); 4.2 (Offices); 4.3 (Mixed Use Development and Offices); 4.4 (Managing Industrial Land and Premises); 4.6 (Support for and Enhancement of Arts, Culture Sport and Entertainment Provision); 4.7 (Retail and Town Centre Development); 4.10 (Support New and Emerging Economic Sectors); and 4.12 (Improving Opportunities for All)

London's Response to Climate Change

5.1 (Climate Change Mitigation); 5.2 (Minimising Carbon Dioxide Emissions); 5.3 (Sustainable Design and Construction); 5.5 (Decentralised Energy Networks); 5.6 (Decentralised Energy in Development Proposals); 5.7 (Renewable Energy); 5.8 (Innovative Energy Technologies); 5.9 (Overheating and Cooling); 5.10 (Urban Greening); 5.12 (Flood Risk Management); 5.13 (Sustainable Drainage); 5.14 (Water Quality and Wastewater Infrastructure); 5.15 (Water Use and Supplies); 5.17 (Waste Capacity); and 5.21 (Contaminated Land).

London's Transport

6.1 (Strategic Approach); 6.2 (Providing Public Transport Capacity and Safeguarding Land for Transport); 6.3 (Assessing Effects of Development on Transport Capacity); 6.4 (Enhancing London's Transport Connectivity); 6.5 (Funding Crossrail and Other Strategically Important Transport Infrastructure); 6.7 (Better Streets and Surface Transport); 6.9 (Cycling); 6.10 (Walking); 6.11 (Smoothing Traffic Flow and Tackling Congestion); 6.12 (Road Network Capacity); and 6.13 (Parking)

London's Living Places and Spaces

7.1 (Building London's Neighbourhoods and Communities); 7.2 (Inclusive Environment); 7.3 (Designing Out Crime); 7.4 (Local Character); 7.5 (Public Realm); 7.6 (Architecture); 7.7 (Location of Tall and Large Buildings); 7.13 (Safety, Security and Resilience to Emergency); 7.14 (Improving Air Quality); 7.15 (Reducing Noise) and 7.18 (Protecting Local Open Space and Addressing Local Deficiency).

Implementation, Monitoring and Review:

8.2 (Planning Obligations); and 8.3 (Community Infrastructure Levy)

Barnet Local Plan

The development plan documents in the Barnet Local Plan constitute the development plan in terms of local planning policy for the purposes of the Planning and Compulsory Purchase Act (2004). The relevant documents comprise the Core Strategy and Development Management Policies documents, which were both adopted in September 2012. The Local Plan development plan policies of most relevance to the determination of this application are:

Core Strategy (Adopted 2012):

CS NPPF (National Planning Policy Framework – Presumption in favour of sustainable development)
CS1 (Barnet's Place Shaping Strategy – Protection, enhancement and consolidated growth – The three strands approach)
CS3 (Distribution of growth in meeting housing aspirations)
CS4 (Providing quality homes and housing choice in Barnet)
CS5 (Protecting and enhancing Barnet's character to create high quality places)
CS6 (Promoting Barnet's Town Centres)
CS7 (Enhancing and protecting Barnet's open spaces)
CS8 (Promoting a strong and prosperous Barnet)
CS9 (Providing safe, effective and efficient travel)
CS10 (Enabling inclusive and integrated community facilities and uses)
CS11 (Improving health and well-being in Barnet)
CS12 (Making Barnet a safer place)
CS13 (Ensuring the efficient use of natural resources)
CS14 (Dealing with our waste)
CS15 (Delivering the Core Strategy)

Development Management Policies (Adopted 2012):

DM01 (Protecting Barnet's character and amenity)
DM02 (Development standards)
DM03 (Accessibility and inclusive design)
DM04 (Environmental considerations for development)
DM05 (Tall Buildings)

DM06 (Barnet's Heritage and Conservation)
DM08 (Ensuring a variety of sizes of new homes to meet housing need)
DM10 (Affordable housing contributions)
DM11 (Development principles for Barnet's town centres)
DM13 (Community and education uses)
DM14 (New and existing employment space)
DM15 (Green belt and open spaces)
DM16 (Biodiversity)
DM17 (Travel impact and parking standards)

Supplementary Planning Guidance and Documents:

A number of local and strategic supplementary planning guidance (SPG) and documents (SPD) are material to the determination of the application.

Local Supplementary Planning Documents:

Sustainable Design and Construction (October 2016)
Residential Design Guidance (April 2013)
Planning Obligations (April 2013)
Affordable Housing (February 2007 with updates in August 2010)
Strategic Supplementary Planning Documents and Guidance: Accessible London: Achieving an Inclusive Environment (April 2004)
Sustainable Design and Construction (May 2006)
Health Issues in Planning (June 2007)
Wheelchair Accessible Housing (September 2007)
Planning for Equality and Diversity in London (October 2007)
All London Green Grid (March 2012)
Shaping Neighbourhoods: Play and Informal Recreation (September 2012)
Housing (November 2012)

National Planning Guidance:

National planning policies are set out in the National Planning Policy Framework (NPPF). This 65 page document was published in March 2012 and it replaces 44 documents, including Planning Policy Guidance Notes, Planning Policy Statements and a range of other national planning guidance.

The NPPF is a key part of reforms to make the planning system less complex and more accessible. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The document includes a 'presumption in favour of sustainable development'. This is taken to mean approving applications which are considered to accord with the development plan. In March 2014 the National Planning Practice Guidance was published (online) as a web based resource. This resource provides an additional level of detail and guidance to support the policies set out in the NPPF.

The Community Infrastructure Levy Regulations 2010:

Planning obligations need to meet the requirements of the Community Infrastructure Levy Regulations 2010 (as amended) to be lawful. Where permission to be granted, obligations would be attached to mitigate the impact of development which are set out in Section 10 of this report.

Colindale Area Action Plan (CAAP)

Relevant Planning History

Details of site history are listed in Appendix 2 of this report.

Public Consultations and Views Expressed

As part of the consultation procedure, 379 letters were sent to local residents. A site notice was also displayed on 27/04/2017.

183 responses were received by the council, all of which were objections.

Objections

- 1) Proposal will lead to crime and anti-social behaviour
- 2) The premises will be open late
- 3) Increase noise and disturbance for local residents and detrimental impact on residential amenity
- 4) Increase in litter
- 5) Information in shop front about application not displayed for long enough
- 6) Proposal fails to comply with planning policies including DM12 (iii) and (iv).
- 7) This use not appropriate in a residential area
- 8) Not appropriate to have a bettering shop opposite a college
- 9) Does not promote jobs or help the community
- 10) Proposal does not meet local needs - convenience shops/ cafes / restaurant day care facility would be more appropriate
- 11) There are balconies above the betting shop which will be disturbed
- 12) The application site is close to a playground
- 13) There are already multiple betting shops close to the site
- 14) Will lead to increase in gambling addiction
- 15) Increase in parking
- 16) Proposal would go against local communities diverse religious beliefs
- 17) Will detrimentally impact on local property prices
- 18) There has not been enough consultation with local community
- 19) Betting shop will be in an area with a high number of vulnerable people
- 20) Previous application had been refused

Officer Response

The Metropolitan police have been consulted as part of the appraisal procedure process. They have recommended some conditions be attached. Conditions restricting the use of obscure glazing; requesting details of CCTV to be implemented; restricting the opening hours of the betting shop unit and details of hard and soft landscaping measures have been attached to this permission. Other conditions recommended by the Metropolitan Police do not relate to planning matters and do not meet the conditions tests as stated in the regulations. These therefore cannot be attached.

The Local Planning Authority cannot consider the betting shops influence on student or young people's lifestyle choices as this is not a material planning consideration. Furthermore, it is illegal to permit any person under the age of

18 to enter a licensed gambling premise, and therefore any users of the Betting shop will be responsible adults above the age of 18. This is regulated by the Trading Standards & Licencing Authority.

There are currently no betting shops in this part of the Colindale Area, with the nearest betting shop located on Burnt Oak Broadway. There are currently retail uses in close proximity to other retail units including a Sainsbury's Local and newsagents. The proposed change of use of this flexible A1/A2/A3 unit is not considered to have a detrimental impact on retail provision in this part of Colindale. There are no restrictions in local or national policies regarding the implementation of a betting shop use as part of a mixed use development.

A condition restricting the opening hours of the betting shop means that there should not be any disturbance during anti-social hours. It is not considered that this use should result in a detrimental increase in litter. As part of the appraisal procedure, the Council's Highways Department was consulted. They raised no objection to the change of use on highways grounds. The impact of a proposal on local property prices is not a planning material consideration.

In the event that anti-social behaviour directly results from the premises and/or the proposed betting premise is operated in breach of their licence, enforcement can be carried out by the appropriate authorities, either the licencing authority or the gambling commission.

The council has followed the appropriate consultation procedures which is compliant with planning regulations. The council published their site notices around the site on 27/04/2017 as per standard consultation procedures.

The applicant has confirmed in the submitted planning statement that 7 new jobs will be created through the implementation of the Betting Shop use including a full time manager, a full time assistant manager, a senior cashier, 3 part time cashiers and a cleaning position. These jobs will be available to local people.

A previous application was submitted to change the use of this unit under a S73 application, but this was withdrawn. Compliance of the proposal with planning policy is addressed in the appraisal section of this report.

Statutory Consultation responses

LB Barnet Highways

No objection to change of use.

Metropolitan Police

The Metropolitan Police Service have raised concerns about the location of a betting shop at this venue. They have stated that there is the potential for this site to become a generator for crime/anti-social behaviour.

Historically these operations have extended hours of activity which when located in close proximity to residential entrances may reduce the effectiveness of their access control strategy and this combined with readily available public seating within the vicinity of available alcohol (Sainsbury's Local 90m away) increases the likelihood for it to have a negative impact on the quality of life for the local residents.

The police are unable to support this application at this present time. They have stated in their response that if the Local Authority is minded to grant planning permission for this use, the following conditions are attached:

1. Hours of operation 9am until 6pm. Monday to Saturday - closed Sundays.
2. No seating outside.
3. No obscuring of the windows.
4. Defensive planting under all curtain walling.
5. Full CCTV coverage inside the venue which is to be extended outside to cover the public footway.
6. Entrance doors to the shop to be positioned as far as possible from the corner and any other residential doors. Additionally consideration should be given to a defensive planting strip to clearly define both uses.
7. Toilet facilities to be open at all times - if they close the venue closes.
8. Office to be located within 5m of the main entrance with direct field of vision.
9. Entry into the venue to be controlled via the office- with an electronically operated lock
10. Name and contact number of manager displayed on the outside of the building.

Officer Response to Metropolitan Police Objection

The vast majority of betting shops are located in town centres and parades with residential units above or nearby to these uses. The location of the residential units above this proposed betting shop does not represent a significantly different arrangement. There is no public seating directly outside the premises and any applications for new seating would be resisted. Conditions have been implemented in accordance with the Metropolitan Police's comments requiring restricted hours of opening, that windows are not obscure glazed and that a scheme of CCTV and hard and soft landscaping provision be submitted to the Local Authority for approval. The hours of opening restrictions are longer than those proposed by the Police. It is considered that as there are nearby shops, restaurants, bars and pubs open in the evening, it would be unreasonable to

restrict opening hours of the betting shop to 6pm. The other condition recommendations outlined in the Police's response do not relate to planning material considerations and do not meet the condition's test as outlined in the Regulations. Therefore, these cannot be implemented.

Site Description

The application site is situated on the ground floor of a new residential development (Application Reference: H/05856/13) on Colindale Avenue, which comprises of 395 flats across 6 separate blocks of 4-11 storeys. The development is substantially complete.

The application site does not lie in a conservation area, but does however fall within the Colindale Area Action Plan (CAAP) area which seeks the creation of a new neighbourhood centre on Colindale Avenue.

Proposal

This application seeks to change the use of 97 sqm of Plot 299 located at the ground floor of 128 Colindale Avenue from flexible A1/A2/A3 to sui genesis, specifically a betting shop. The other 145.5sqm of the unit will remain for A1/A2/A3 use.

PLANNING CONSIDERATIONS

Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for

Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5, CS6.
- Relevant Development Management Policies: DM01, DM12

Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted October 2016)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

Main issues for consideration

The main issues for consideration in this case are:

- Whether the principle of a change of use from flexible A1/A2/A3 to a Betting shop (Sui Generis) is acceptable;
- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality and
- Whether harm would be caused to the living conditions of neighbouring residents.

ASSESSMENT OF PROPOSALS

Principle of a change of use

The existing site premises are currently unoccupied. Therefore, it should be noted that the A1/A2/A3 use is the site's approved rather than existing use.

The Core Strategy identifies that '*Colindale Avenue will provide the vibrant heart and gateway of Colindale as a sustainable mixed-use neighbourhood centre anchored by a new public transport interchange with pedestrian piazza*'

The Local Planning Authority have considered the Development Management policies within the adopted Local Plan (Development Management Policies) Development Plan Document (September 2012) and note that there are no specific policies that restrict the implementation of Sui Generis uses. Although these policies do protect retail uses in primary or secondary retail frontage in an established town centre and in shopping parades, this unit does not lie in either of these land designations.

Policy DM12: Maintaining local centres and parades states that *'the council will protect all retail uses (Class A1) in the existing local centres, parades and isolated shops unless it can be demonstrated that:*

- i. there will be no significant reduction of shopping facilities as a result; and*
- ii. that alternative shopping facilities that are similarly accessible by walking, cycling or public transport exist to meet the needs of the area; and*
- iii. the proposed use is within Class A2, A3, A4, A5 or meets an identified local need; and*
- iv. there is no demand for continued Class A1 use, and that the site has been marketed effectively for such use.*

It is considered that the loss of 97sqm of floorspace proposed under this application does not represent a significant reduction of shopping facilities. There are a range of retail facilities close to the site. These include a newsagents at Colindale Station (35 metres from the site) and a Sainsbury's Local on Charcot Avenue (90 metres from the site) which are accessible by walking. There is also a Boots (The Hyde, 7 minute walk from the site), a Tesco Express (Heritage Avenue, 10 minute walk) a Morrisons (Edgware Road, 10 minute walk) and Asda Superstore (off Edgware Road, 10 minute walk) nearby. The Brent Cross Shopping Centre is a 20 minute journey from the site by public transport.

There is a lack of betting shops in this area, with the nearest betting shop being located on Burnt Oak Broadway (0.5 miles from the site). It is noted that the unit is not currently occupied by an A1 use and instead has received permission to be flexible A1/A2/A3. The proposal will therefore not definitely result in the loss of an A1 unit. Furthermore, as demonstrated above there is sufficient retail provision in the local area. In these circumstances it is considered that the requirement of marketing evidence is onerous.

At the time that the application was approved, betting shop uses were classified as A2. Subsequent to the approval of planning permission H/05856/13, the classification of this use was changed. It is however considered that this use would add to the vitality of this small parade as this new use would maintain an active frontage. As such, this use is not considered detrimental to the usability of this parade.

In addition to local planning policies, the Local Planning Authority also has regard for the Mayor's London Plan (2016) Policy 4.8, paragraph 4.50A which states that the planning system should be used to help manage clusters of uses - in specific, avoiding over-concentrations of betting shops and hot food takeaways. There is not considered to be an 'over-concentration' of either betting shops or hot food takeaways in the Colindale area. Furthermore, this policy is primarily focused on Town Centre locations, which the proposed site does not lie in. Therefore the proposal does comply with London Plan policy 4.8.

Overall it is considered that a betting shop in this location would not be inappropriate, and that the proposals would not lead to the loss of an A1 unit or an over concentration of sui generis uses or betting shops within this out-of-centre shopping area.

Condition 9 of application H/05856/13 did restrict the uses of the ground floor

commercial units to Class A uses. A betting shop is considered to have a positive contribution of the activity of this parade and as such it is considered that this use is appropriate. Furthermore, at the time that this permission was granted betting shops were considered to be a Class A2 use.

Impact on character and appearance of the existing building, the street scene and the wider locality

No changes to the appearance of the building are proposed in this application, thus it is considered that the proposals will not result in unacceptable harm to the character and appearance of the host building, street scene or wider locality, in accordance with Policy DM01.

Separate application for new shop signage and shopfront were approved earlier this year (see details of these applications under Appendix 2 of this report).

Impact on the living conditions of neighbouring residents

As there are residential units above the proposed betting shop, consideration has to be given to how the proposed use will impact on nearby residential units. The proposed use is not considered to give rise to demonstrable undesirable living conditions for the neighbouring and nearby residential units to an extent that would warrant the applications acceptable reason for refusal. The majority of betting shops units are located in town centres and parades with residential units above and/or nearby.

Opening hours of the new Betting Shop will be controlled by condition to ensure that the use is not in operation past unsocial hours (before 08:00am or after 22:00pm). These opening hours are comparable with other shops, restaurants, bars and pubs in the local area (e.g. Sainsbury's Local on Charcot Avenue is open 7am-11pm daily). In addition a betting shop operating around these hours will increase the level of natural surveillance and may actually deter criminal behaviour along the locality. A condition has been implemented requiring a scheme of CCTV to be submitted which will further increase natural surveillance and security in this area.

Licensing of the premises

On 4th July 2017 license was granted for betting premises (other than track).

The Police and the applicant agreed the following 3 conditions:

1. CCTV shall be installed to Home Office Guidance standards and recordings shall be kept for 31 days and shall be made available to the police and licensing officers if requested. The CCTV system will cover the entry and exit point and the main customer area to include the machine areas and staff area of the premises. External cameras to be installed to cover the outside areas including the front door and along the boundary of the premises.
2. A maglock will be fitted to the front door of the premises and shall be controlled by staff.
3. An incident record shall be kept and made available to the Police and Responsible Authorities.

The licensing Sub-Committee imposed the following additional conditions:

1. There is to be at least two members of staff on duty at all times.
2. Posters will be prominently displayed in the premises which advise customers that no anti-social behaviour will be tolerated.

In the event that anti-social behaviour directly results from the premises and/or the proposed betting premise is operated in breach of their licence, enforcement can be carried out by the appropriate authorities, either the licencing authority or the gambling commission.

EQUALITY AND DIVERSITY ISSUES

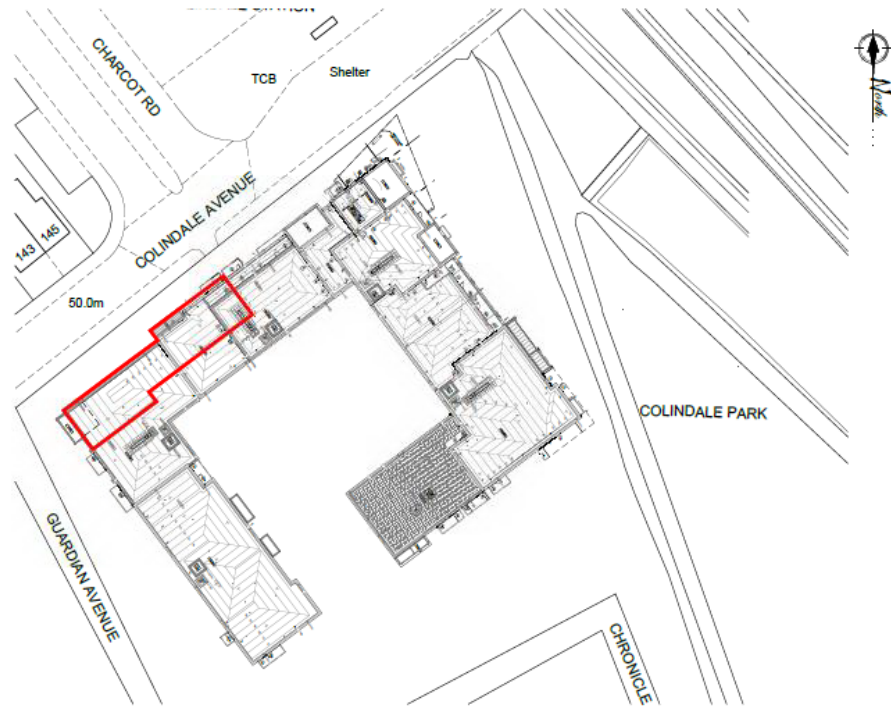
The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

CONCLUSION

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposed development would have an acceptable impact on the character and appearance of the application site, the street scene and the locality. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. Furthermore, the proposal is not considered detrimental to the functionality or activity of this new parade. This application is therefore recommended for approval.

APPENDICES

Appendix 1: Site Plan



Appendix 2: Planning History

Description: Demolition of all existing buildings; redevelopment to provide 395 flats, 772sqm of retail/financial/professional/restaurant/café uses (Use Classes A1/A2/A3) and 112sqm of floorspace for retail/financial/professional/restaurant/café uses (Use Classes A1/A2/A3) or community use (Use Class D1) in six blocks ranging from 4 to 11 storeys; associated highways and public realm works including formation of piazza adjacent to Colindale Avenue and Colindale Park; associated access from Colindale Avenue, internal street network, car and cycle parking, refuse storage, landscaping and amenity space provision; associated plant and relocation of existing substation

Planning Reference: H/05856/13

Decision: Approve following legal agreement

Decision Date: 23/12/2017

Description: Installation of 3no internally illuminated fascia signs and 2no internally illuminated hanging signs

Planning Reference: 17/2508/ADV

Decision: Approve subject to conditions

Decision Date: 08/06/2017

Description: New Shop Front

Planning Reference: 17/2507/FUL

Decision: Approve subject to conditions

Decision Date: 05/06/2017

Appendix 2: Consultation responses received after 28th September committee

London
02/10/17

Dear Harriet,

I am writing to you regarding the planning application by Paddy Power to operate a new betting shop on the Edition housing development on Colindale Avenue.

Our organisation provides high quality care, housing and short-term support to people in crisis living on Barnet.

Elysian House which we care and maintain is nested within the residential Pulse Colindale development and we have become aware that there is a great deal of opposition to the idea of yet another betting shop in this locality.

We are concerned on the impact it will have on our Elysian House rehabilitation programme on our patients that may find the proposed betting shop interesting to visit although may not have the monies to gamble but surely meet many people in and out of the proposed Paddy Power premises that could influence them indirectly and cause issues for Elysian House including unwanted visitors coming back to the recovery house.

It is also felt that a betting shop is not the most important facility for the area, which is lacking in Doctor and GP surgeries, and/or local corner shops servicing the community such as coffee shops.

We have concerns that a betting shop sets a bad example to the community especially the vulnerable as being the only visible form of recreation/entertainment in the area.

We believe our community deserve something better than an encouragement to gambling.

Kind regards,
Marta Pisarri

Contract Manager
BEH Recovery Houses
Look Ahead Care, Support and Housing

Dear Ms Beattie

I trust you are well. Recently I was made aware of a potential betting outfit - Paddy Power - been considered an approval to operate as a business on 128 Colindale Avenue NW9 4AX. While my business (the new up coming restaurant next to The Stay Club) is new to the community, I have been very familiar with the neighbourhood for the last 20 years and have seen the massive improvement over the years.. So it strikes me as a rather bizarre decision to be considering such an inappropriate business in a largely residential new development which include families with young children and young adult students.

As far as I am aware it has always been a major Barnet Council objective to regenerate the community. So far the council has been very successful. It is quite clear betting premises will undermine this objective in a massive way. Betting premises often attract patrons who promote negative socio-economic values in a community. These include ant-social behaviour, crime, and public nuisance and disorderly behaviour. My wife and I are investing a lot of resources in our restaurant to ensure that it is family friendly and promotes the area as a destination attraction. So are the other businesses in the area. In addition there are numerous International families and students with residences in the community. All a betting shop will do is drive down the value perception of the new developments in the Colindale area.

Make no mistake just as the community will lose out, so will Barnet Council. From an economic and a social stand point, betting shops have no value in a residential development. I therefore implore, that you not only refuse the application on Colindale Avenue, but no betting shops should be allowed anywhere in the surrounding areas either - from Beaufort Park to the new developments on Aerodrome road.

Regards

Dr Ayo Osunrinade
Managing Director
Very Good Entertainment Ltd

Dear John

I am writing directly to you with my deepest concerns on the current planning application of Paddy Power 17/2248/FUL as the Chair of Colindale Village RA.

CVRA is committed to:

- safeguard and promote the interest of residents in the area on matters concerning housing and the environment;
- help to improve living conditions, community facilities and services for residents living in the neighbouring area; and
- represent the views of residents in our neighbourhood particularly those with low income and vulnerable due to various addictions such as alcohol, gambling, etc.

The community has observed that Barnet council has made undetermined mistakes in the process from licensing [and by sending letters of the applicant "Paddy Power" to the colindale community on Barnet council letter headed paper when Paddy power could have simply manually posted to ALL the development without the need and intervention of Barnet Council bringing costs of printing and posting twice] see attached letter.



Keith Balcombe
Chairperson
New Hendon Village Residents Association
Lark Court
Lanacre Avenue
Colindale
NW9 5QD
02 October, 2017.

Barnet Council
Planning Department
1255 High Road
Whetsone
Barnet
N20 0EJ

RE: Opposition to Paddy Power Shop Colindale

Dear Sir / Madam

New Hendon Village Residents Association is an active committee representing over 300 households at the New Hendon Village development and Graham Park Estate. The association was formed in 2012 and is recognised and supported by Genesis Housing.

At our meeting on 20 September 2017 the opening of a Paddy Power betting shop was discussed as an agenda Item. As a group of residents at the meeting we were unanimous in our disapproval over plans for such a shop to open in our community.

Colindale is changing, for the better. The formation of our residents association has been instrumental in the development of a sense of community; this has united residents of both the long established and new housing developments. The area is benefiting from new projects including Barnet College, Colindale Library and the soon to arrive council buildings.

As residents we are concerned that the opening of a betting shop will do nothing to enhance the local area and will be a backward step for our developing locality. As a group of residents we are concerned that the social impact of this shop will devastate lives, ruin families and have a negative impact on our social spaces. A new betting shop is not required in the area, particularly as there are at least 5 such establishments within walking distance of Colindale Station.

As a significant group of residents we are opposed to this establishment and we ask that our opinion be taken into consideration. We look forward to hearing from you.

Yours sincerely

Keith Balcombe
Chairperson New Hendon Village Residents Association