



Appeal Decision

Hearing held on 18 March 2025

Site visits made on 18 March 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th April 2025

Appeal Ref: APP/X5210/W/24/3356292

Amusement Arcade and Premises at Basement and Ground Floor, 1 to 3 Euston Road, Camden, London NW1 2SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Family Leisure Euston Limited against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2023/4956/P.
 - The application sought planning permission for the use of the ground and basement floors at 1 to 3 Euston Road, Camden, as an amusement arcade, without complying with a condition attached to planning permission PS9704859.
 - The condition in dispute is No 2 which states that: "The use hereby approved shall only operate between the hours of 8am and 12pm midnight".
 - The reason given for the condition is: "To safeguard the amenities of the adjoining premises and the area generally."
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Decision

1. The appeal is allowed, and planning permission is granted for use of the ground and basement floors as an adult gaming centre at 1 to 3 Euston Road, Camden, London NW1 2SA, in accordance with the application Ref 2023/4956/P, without compliance with condition number 2 previously imposed on planning permission Ref PS9704859 dated 28 May 1998 and subject to the conditions set out in the schedule to this decision.

Background and Preliminary Matters

2. Following the grant of the permission referred to in the banner above the premises were used as an amusement arcade. That permission was granted subject to two conditions, the first limited the length of the consent to three years. The second restricted the hours of opening to between 08:00 and midnight. In February 2000, an application to continue the use without complying with condition 1 was granted permission. In August 2023, a certificate of lawfulness was granted which accepted that the premises had been operating between the hours of 08:00 and 02:00, 7 days a week, for more than ten years. That certificate also altered the use of the premises to be described as an adult gaming centre (AGC).
3. Consequently, although the appeal before me relates to a proposal to continue the use of the premises without complying with condition 2 on the original permission both main parties agreed at the hearing that the premises can open between 08:00 and 02:00 hours, seven days a week.

4. The proposal is to remove the condition to allow twenty-four hour opening, 7 days a week. This amounts to an additional six hours daily.
5. The Planning Practice Guidance (PPG) makes it clear that the Local Planning Authority (and by extension, the Inspector) shall consider only the question of the conditions subject to which planning permission should be granted. It is not a complete re-consideration of the original application. To enable a proper assessment of the issues I undertook two site visits: the first was before the hearing at 02:30 hours, after the premises had closed. The second was after the hearing closed, during the day and while the premises were open.

Main Issues

6. The main issues are:
 - whether Condition 2 is reasonable and necessary, having regard to the effect of the proposal on the health and wellbeing of residents of Camden, including vulnerable residents; and
 - whether Condition 2 is reasonable and necessary, having regard to the fear of crime, crime, and disorder.

Reasons

Health and wellbeing

7. The appeal property is a single storey building with a basement floor, situated on the southern side of Euston Road, directly opposite Kings Cross Station. The premises are already in use as an AGC and have a frontage to Euston Road and Birkenhead Street.
8. The immediate area is a mix of commercial, hotels, service uses, and residential. It is a particularly vibrant area during the day with significant levels of footfall on both sides of the road, especially due to the nearby train stations, bus stops and the main Euston Road. Policy TC2 of the Camden Local Plan 2017 (the LP) seeks to promote successful and vibrant centres, focusing town centre uses in King's Cross and Euston Growth areas, providing that such uses do not have a harmful effect on residents and the local area.
9. At my nighttime site visit I observed that the area is much quieter on a weekday night than during the daytime. However, there was still traffic and people, including people coming in and out of Kings Cross Station and using the 24 hour McDonald's restaurant, which I understand is the only premises open at that time on a weekday night. I also accept that the area would be likely to be much busier on a weekend night.
10. My attention has also been drawn to St Mungo's hostel for homeless which is located on Birkenhead Street, and I am aware of my duty under the Equalities Act 2010 in regard to persons with protected characteristics. I acknowledge that there could be vulnerable adults staying at St Mungo's, including those with mental health problems, drug and gambling issues and street people who frequent the area and who tend to loiter on the street and outside Kings Cross Station. The submitted evidence also indicates that vulnerable people may sometimes use the appeal premises, or be outside, and the Council has concerns that the proposed

additional hours would increase opportunities for gambling, including increasing the risk of vulnerable people gambling.

11. However, although there are vulnerable people living and loitering close to the appeal site, the use of the area by vulnerable people is an existing issue prevalent in the wider area and not wholly linked to the use as an AGC. Furthermore, the AGC is an existing use which can already be accessed by vulnerable people for eighteen hours of the day.
12. The premises currently operate under a licence granted under the Gambling Act 2005 which does not include any restrictions on the hours of opening. While the licensing regulatory framework is separate from that for planning and the planning regime can restrict the hours of operation, one of the objectives of the licensing Act is the protection of children and other vulnerable persons from being exploited by gambling. To obtain and retain a licence the premises operator has to set processes and procedures to achieve this aim. I also heard evidence from the appellant that the business has to interact with customers and that staff are on the shop floor, regularly checking on customers welfare. The staff would be aware of any vulnerable customers and be able to ensure that they are not being exploited.
13. The appeal premises have also recently become a “safe haven” which I was advised is a process accredited by Camden Council. This accreditation means that the AGC is a location where people, who have concerns over their safety, can go and seek assistance. The proposal to open the premises for 24 hours a day would provide this service to the local community, including vulnerable people, for a longer period. The opening of the premises for 24 hours a day would, therefore, contribute to safe places and promote safer streets.
14. Even considering the evidence submitted by the Council from Public Health England and the Gambling Commission regarding the risk of vulnerable people from gambling, I have no compelling evidence that the existing use and these premises are specifically adversely affecting the residents of Camden, including vulnerable people. Furthermore, I have no compelling evidence, given how long the premises can already open for, that the proposed extended hours would increase any risk that may exist.
15. For the above reasons, I find that Condition 2 is no longer reasonable or necessary, having regard to the effect of the proposal on the health and wellbeing of the residents of Camden, including vulnerable residents. It would, in that regard, comply with Policies TC2, C1 and C5 of the LP which, taken together, require development to positively contribute to creating high quality, active, safe and accessible places, aim to make Camden a safer place, require developments to demonstrate that they have incorporated design principles which contribute to community safety, and promote safer streets and public areas.
16. The Council has also referred to Policy C6 of the LP in their reason for refusal and advised at the hearing that the proposal fails to comply with C6(a). This policy seeks to promote fair access and remove barriers that prevent everyone from accessing facilities and opportunities. Subsection (a) expects all buildings and places to meet the highest practicable standards of accessible and inclusive design so they can be used safely. As an existing building and use there are limitations over the accessibility of parts of the internal gaming areas, such as the basement level which is only accessible by stairs, and this situation would be

unaffected if I dismiss the appeal. Nevertheless, I have no compelling evidence that the ground floor is not safely accessible by all and, consequently, find no conflict with Policy C6 of the LP.

Crime and disorder

17. The evidence from the Metropolitan Police advised that the area is a ward priority for violence and drug related offences, specifically violence against women and girls. Crime is an issue across Camden but noted as especially prevalent around Kings Cross Station. The local Policing team has also advised that the area suffers from homeless people loitering, begging, and committing crime, and that there is a heavy presence of drugs in the area outside the appeal premises.
18. The local Policing team has raised concerns that the extended opening hours would increase pressure on an already stretched policing resource. I also accept that the evidence before me is only of recorded crime incidents and that there is likelihood of other anti-social behaviour going unrecorded. The comments of the local Policing team, alongside those of interested parties, are of great importance given their experience of the local area.
19. I entirely accept, based on the evidence submitted prior to and at the hearing, as well as my own observations around the site, that the area currently suffers from significant levels of fear of crime, crime, and anti-social behaviour.
20. The appellant has implemented a number of security measures, including but not exclusively, additional CCTV cameras, personal safety alarms, and additional lighting and signage in and around the premises. I was shown the CCTV system which includes extensive coverage, both inside the premises and of the area immediately outside and over to the frontage of Kings Cross Station, with high quality 4K imagery.
21. The internal CCTV coverage ensures that there are no hidden areas within the premises and all of the areas covered by the CCTV can also be seen by customers and staff on screens near the entrance, as well as on a screen in the staff office. This visible presence of the footage of the cameras would be likely to reduce crime. I also saw at my visit that the basement toilet facilities are always locked and labelled as “back of house.” It is not obviously a publicly available toilet, and a staff key is required to unlock the facility, thereby reducing the opportunity for this space to be used for illegal activities.
22. In addition to the security measures already implemented the Council has requested that the frontage of the premises be more open and active, in order to enhance the opportunities for natural surveillance of the area outside the premises. This matter was discussed at the hearing and a condition can be imposed to ensure that more of the existing windows are unobscured so as to create a more active frontage. I will return to this matter.
23. The appellant is also required, under the licencing regime, to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. If, at any point, the Police establish an evidenced link between the AGC and crime there are processes under the Licencing Act to revoke the licence and remove the use from the appeal site. Although I accept that the local Policing team and the Council have concerns about the operation of the

premises this does not necessarily mean that the use itself is unacceptable. Moreover, the use is not before me to consider under the current appeal.

24. The Council accepted, at the hearing, that the measures implemented by the appellant would ensure that there would be limited opportunities for crime within the premises. This corresponds with the advice from the Metropolitan Police Designing Out Crime Officer, who raised no objections following the implementation of the additional security measures.
25. Nevertheless, the Council remained concerned about the level of crime, fear of crime and disorder outside of the premises. I note the most recent crime figures provided by the local Policing team are based on a very localised area around the appeal site and continue to indicate high levels of crime. However, this latest information lacks detail to link any of the crimes directly to the AGC, or to lead me to the view that crime would increase to any material degree because of the additional opening hours proposed in this appeal.
26. Case law has determined that fear of crime and anti-social behaviour can be a material consideration in a planning decision. However, there must be a reasonable evidential basis for that fear, and that the fear needs to be related to the use of the land, in planning terms. Even considering the concerns of the local Policing team, there is nothing to show that the extended opening hours proposed would result in additional crime and disorder that was not already experienced in the area. The evidence before me is of existing problems in the area rather than directly linked to the AGC. Furthermore, I have no compelling evidence that the additional opening hours would exacerbate the problem to an extent that would justify dismissing the appeal.
27. The Council also accepted at the hearing that the AGC would not be able to prevent people gathering or loitering in the street outside the premises, or in the immediate area. Furthermore, the CCTV would help to discourage gathering outside the premises, increase surveillance and the extended opening hours would also increase lighting of the street during the nighttime.
28. The opening of the premises for 24 hours a day would increase footfall during the additional hours and increase natural surveillance and light. The security measures, including the additional CCTV coverage of the area outside Kings Cross Station and of Birkenhead Street, would reduce the opportunities for crime in the immediate area and would also provide the Police with access to CCTV footage. The additional CCTV and lighting throughout the night would, therefore, be a benefit to the immediate area around the premises.
29. For the above reasons, I find that Condition 2 is neither reasonable nor necessary, having regard to fear of crime, crime, and disorder. The removal of the condition would comply with Policies TC2, C1 and C5 of the LP.

Other Matters

30. The appeal site is located within the Kings Cross Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

31. As far as it is relevant to the appeal, although the CA includes a number of commercial buildings, including the appeal site, I consider that the CA is focused on Kings Cross Station and the older Georgian terraced buildings. The significance is mainly derived from its historic integrity and architectural unity. The appeal building currently makes a neutral contribution to the CA and the proposed development would not alter that position. Even with the opening up of part of the frontage of the premises, to enable views in and out, the character and appearance of the CA as a whole would be preserved.
32. For the above reasons, I find that the proposal would preserve the character and appearance of the Earlsdon Conservation Area. I note that the Council raised no objection in this regard.
33. I accept that the additional opening hours would increase footfall and that customers to the AGC may cause noise and disturbance in the area. However, the evidence of customer numbers for the AGC in Kilburn indicates low usage between the hours of 02:00 and 08:00. The appellant confirmed at the hearing that the Kilburn premises is close to underground stations and other commercial uses and is, therefore, more representative of the appeal site than their other premises in Camden. Although there would be an increase in people being attracted to the premises during the additional hours, patronage is likely to remain low and I have no compelling evidence that the extended opening hours would result in unacceptable levels of noise or disturbance to the neighbouring residential and business premises on what can already, even at that time of night, be a relatively busy area.
34. Prior to the hearing the appellant provided a copy of a recent appeal decision in Brixton. Although that appeal has some similarities in the consideration of the issues of health, well-being, crime, and disorder, I have no compelling evidence that the premises at Brixton are comparable to the appeal before me and the local plan policies are also materially different. Consequently, I have had regard to that appeal decision but determined the appeal before me on the basis of the evidence presented before and at the hearing and on my own observations of the area.

Conditions

35. This appeal grants a new planning permission. The PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. However, neither of the previous conditions are relevant to the appeal proposal. The Council has provided a list of suggested conditions, and both parties commented on these at the hearing.
36. In order to enhance the opportunities for natural surveillance of the area outside the premises I have included a condition to require at least 50% of the windows to be unobscured so as to create a more active frontage. However, I have limited this to the area of the full height glazing on the corner of Euston Road and Birkenhead Street as views from the windows along the side elevation, on Birkenhead Street, would be restricted by the presence of the gaming machines inside the premises. The benefit of removing the decals from the windows along Birkenhead Street would, therefore, be limited.
37. To ensure that the living conditions of local residents and businesses are protected, it is necessary and reasonable to impose conditions to control amplified

noise levels and to ensure that the premises are managed in accordance with the noise management plans.

38. The appellant confirmed at the hearing that the security measures have all been implemented at the premises. I have, therefore, included a condition to ensure that those measures are retained and maintained for the lifetime of the development in order to promote safe places, promote safer streets, reduce the risk of people loitering or gathering outside the premises and minimise the risk of crime and anti-social behaviour.

Conclusion

39. For the above reasons, having taken account of the development plan, along with all other relevant material considerations, the appeal is allowed.

K Townsend

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Prior to the use of the premises for twenty-four hour operations, at least 50% of the existing full height glazed sections of the frontage to the property shall be provided with unobscured glass, through which activity can be seen from the street, and shall be permanently retained and maintained through the life of this planning consent.
- 2) Noise from any source of amplified sound, speech, or music in connection with the use hereby approved shall not exceed the background noise level, when measured from outside the premises at the nearest residential unit or visitor accommodation unit.
- 3) The development hereby permitted shall at all times be operated in compliance with the recommendations and management procedures set out in the Noise Report prepared by Hepworth Acoustics, dated November 2023, Report No: P23-343-R01v2.
- 4) The development hereby permitted shall maintain the security measures as detailed within the Statement of Stuart Green CCO Family Leisure Holdings Ltd for the lifetime of the use.

*** END OF CONDITIONS ***

APPEARANCES

FOR THE APPELLANT:

Andy Wood, Solicitor, Woods Whur Ltd

Stuart Green, Chief Commercial Officer, Family Leisure Holdings Ltd

Eric Doherty, Retail Development Director, Family Leisure Holdings Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Brendan Versluys, Planning Officer, Camden Council

Deirdre Traynor, Planning Officer, Camden Council

DOCUMENTS SUBMITTED AT OR SHORTLY AFTER THE HEARING:

- None