

RECEIVED: 21 October, 2011

WARD: Fryent

PLANNING AREA: Kingsbury & Kenton Consultative Forum

LOCATION: 165 Edgware Road, Kingsbury, London, NW9 6LL

PROPOSAL: Change of use from Off Licence shop (Use Class A1) to Slot Machine Arcade (Sui Generis)

APPLICANT: Mr T O'Sullivan

CONTACT: Studio 136 Architects Ltd

PLAN NO'S:
See Condition 2

DEFERRED FOR FURTHER CONSULTATION

The application was deferred at the Planning Committee on 18 January 2012; this was to allow time to gather further information regarding residents' and Ward Councillors' concerns about anti-social behaviour in the local area and in particular to seek the views of, and evidence from, the Metropolitan Police's Safer Neighbourhoods Team for Fryent Ward.

As a result of this evidence, your officers have reconsidered the merits and harm of the application and have concluded the application should be refused. The reasoning is discussed in greater detail below.

Two further objections have been received, on the following grounds:

- Increase in crime and antisocial behaviour;
- Lack of parking in the area

Recommendation: Refusal

The updated committee report is set out below.

RECOMMENDATION

Refuse consent

EXISTING

The application site is an off-licence shop at 165 Edgware Road, on the southwestern corner of Edgware Road and Springfield Mount. It is not located in a conservation area nor is the building listed. Surrounding uses are commercial to either side and along the Edgware Road and residential to the west. The primary shopping frontage begins on the other side of Springfield Mount.

The ground floor commercial unit has a gross floor area of 112sqm and there is a self contained residential unit in the first floor. A 3m wide crossover is provided to the rear of the site from Springfield Mount to gated access into a 4m deep yard area and store.

The unit has moderate access to public transport services (PTAL 2), with close access to bus routes 32 and 142 on Edgware Road and 83 and 183 on Kingsbury Road.

Edgware Road is a London Distributor Road. There are waiting and loading restrictions at the junction of Edgware Road with Springfield Mount between 7am and 7pm on Mondays to Saturdays. Springfield Mount is a local residential access road on which there is a 20mph speed limit.

PROPOSAL

The application proposes the change of use of the ground floor unit from an off-licence (Use Class A1) to a slot machine arcade (Sui Generis). The application does not propose alterations to the shop front or existing servicing provision.

HISTORY

11/2906 Demolition of existing side extension and erection of single storey side extension to increase shop (Use Class A1) - under consideration

04/3841 Extension of single-storey side extension to retail shop **Refused** 27/01/2005

99/0381 Erection of single-storey side extension to retail shop **Refused** 20/04/1999

98/2425 Erection of single-storey side extension and installation of new shopfront **Refused** 20/01/1999

POLICY CONSIDERATIONS

Adopted Brent Unitary Development plan 2004

H22: Protection of Residential Amenity

The establishment of new incompatible non-residential uses in predominantly residential areas will not be permitted.

TRN3: Environmental Impact of Traffic

Where a planning application would cause or worsen an unacceptable environmental impact from traffic it will be refused.

TRN22: Parking Standards - Non-Residential Developments

Non-residential development should make provision for vehicular parking in accordance with the maximum standards set out in the UDP.

TRN34: Servicing in New Development

The provision of servicing is required in all development covered by the plan's standards and the loss of such facilities shall be resisted

SH13: Amusement Centres

Amusement centres will be acceptable in Secondary Shopping Frontages subject to provisions.

SH18: Other Shopping Parades

In shopping parades outside the primary and secondary areas, change of use to appropriate alternative uses will be permitted.

CONSULTATION

A total of 21 adjoining owner/occupiers were consulted regarding the application on Edgware Road and Springfield Mount.

3 letters of objection and 1 petition containing 95 signatories have been received raising the following objections:

- Increase in crime and antisocial behaviour;
- Unclear whether the proposal is for a betting shop/slot machine arcade or adult gaming centre;
- No information on the types of activities;
- Gambling well provided for in the area;

Officer Comment: These matters will be considered in the Remarks Section of the report.

External Consultees

London Borough of Barnet - No comments or objections received.

Internal Consultees

Highway & Transport Delivery - There is no change of parking and servicing allowances for the unit due to the proposed change of use from retail to amusement arcade.

REMARKS

Introduction

The application proposes to change the use of the ground floor unit to a slot machine arcade. Whilst the proposed use is specified as a slot machine arcade, it would also fall within the definition of a gaming centre or an amusement centre/arcade.

It is noted that the Design and Access Statement submitted with the application refers to the use as a 'Adult Gaming Centre'. These are arcades for adults providing gaming machines with higher payouts than family entertainment centres. It is not possible to impose age limits on the customers of an amusement centre by condition as this would fail the enforceability test of Circular 11/95. As such, this application must be considered in terms of the general principle of providing a slot machine arcade with no such restrictions in place.

1. Principle of use

s.38 (6) of the Planning Compulsory Purchase Act 2004 states that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

1.1 Development Plan

The application site fronts Edgware Road, just outside of the Primary Shopping frontage which begins on the northwestern side of Springfield Mount. As the unit is located outside of the protected shopping frontage and is in close proximity to other shops which serve the locality, the principle of the change of use to non-retail can be accepted.

Policy SH13 in the UDP relates specifically to the provision of amusement centres (which would include a slot machine arcade) and sets out that such uses will be acceptable only in Secondary Shopping Frontages subject to consideration of (1) the amenity of residential occupiers; (2) proximity to sensitive uses; (3) traffic impacts; and (4) whether there is a concentration of similar uses. Whilst it is acknowledged the site is not located in a designated Secondary Shopping

Frontage, it is located adjacent to the Primary Shopping Frontage and should be assessed against the criteria of Policy SH13 to consider whether the proposal meets the aims of this policy.

1.2 Other material considerations

In terms of whether it is reasonable to consider the fear of crime and anti-social behaviour when assessing a planning application, it is acknowledged that public safety and its perception are material considerations. Local authorities have a duty under s.17 of the Crime and Disorder Act 1998 to exercise their functions with due regard to their likely effect on crime and disorder and the guidance document Safer Places – The Planning System and Crime Prevention 2004 states that "The prevention of crime and the enhancement of community safety are matters that a local planning authority should be considered when exercising its functions under the Town and Country Planning legislation". (CLG, 2004: p7)

The guidance document goes on to say that: "Community safety is an aspect of the quality of life, in which people, individually and collectively, are sufficiently free from or reassured about a range of real and perceived risks centering on crime and related misbehaviour; are able to cope with the consequences of those incidents that they experience; and if unable to cope alone, are helped to do so. All this establishes the conditions for them to pursue the necessities of their cultural, social and economic life." (CLG, 2004: p8)

2. Assessment against Policy SH13

2.1 Residential amenity

There is a residential flat located above the application site and to the rear are residential properties fronting Springfield Gardens, separated by an access to the public house car park (though does not appear to be in regular use). The site is in close proximity to the Primary Shopping Frontage comprising ground floor commercial premises and is adjacent to a public house; the opening hours of some of these uses extend into the evening. It also fronts Edgware Road, which is a busy highway. Consequently, a degree of noise is to be anticipated for residents of such areas.

The use itself will generally be contained within the building other than the coming and going of customers. The change of use would be unlikely to result in noise and disturbance in excess of what residents above such premises and in the surrounding area would reasonably expect. No proposed opening hours have been provided by the applicant however it is recommended that the hours of use are controlled by condition to restrict the use to daytime opening hours.

2.1.1 Evidence from the Metropolitan Police

Your officers have contacted the Metropolitan Police's Fryent Safer Neighbourhoods Team (SNT) to establish the general situation with anti-social behaviour in the area, whether the Fryent SNT was aware of any anti-social behaviour associated with other similar premises in the area and whether, in their experience, such a use would exacerbate existing anti-social behaviour.

An officer replied with information on the history of anti-social behaviour in this location (the junction of Springfield Mount and Edgware Road), which was affected by anti-social behaviour and street robberies in 2006. As a result of this the SNT and the Council secured a dispersal area but this was generally ineffective. In 2007 the anti-social behaviour, characterised by groups of youths up to 40 in number, worsened and a second dispersal area was introduced at the end of 2007. The Council provided gates to the access to the flats above the (former) fried chicken takeaway opposite and this helped in the short term but the locks have twice been removed and not replaced the second time.

By the end of 2008 the problem had returned but the SNT did not have the option of a third

dispersal area and instead sought to reduce the amount of youths involved through mediation with the youths, local residents and local schools, to some effect.

The SNT do not have any direct evidence that this particular type of premises is associated with anti-social behaviour. They have provided some limited data on instances of nuisance and disturbance caused at betting shops across Brent; as the use is different and the data is limited, your officers can only give limited weight to this evidence.

The officer from Fryent SNT concludes that since the fried chicken takeaway has closed the number of youths congregating is much reduced; that commercial unit is about to re-open as an ice-cream parlour. He expressed a clear concern that the change of use of the off-licence to a gaming centre would mean the location again becomes a magnet for youths, with the associated anti-social behaviour that Fryent SNT have attempted to manage over the past six years.

It is clear that residents are fearful and concerned that the proposed change of use would result in a return of the anti-social behaviour which blighted this location and surrounding areas for a number of years and these concerns have been supported by the officer from Fryent SNT. In the absence of firm evidence on gaming centres that this proposed use will result in an increase in anti-social behaviour, your officers must make a judgement on whether the fears and concerns of members of the public and of the Fryent SNT constitute a material consideration in this case and if so, that they outweigh the planning merits of the application.

Your officers reverted to the Fryent SNT officer to seek further evidence and the police officer summarised the discussion held at a Ward panel meeting on Thursday 23 February in which this case was brought up, which is paraphrased here: members of the panel were concerned that the shop's location on the Edgware Road at the junction with Springfield Mount is the main route into the estate, either by vehicle or on foot. The panel estimated over 75% of residents use this entrance and it would mean passing the gaming centre every time they leave or return home, which is considered an "in your face" location. Some members of the panel are also fearful that gangs would return and hang around above the shops above the former fried chicken shop; they were also fearful of a rise in litter associated with these gangs. The officer concluded that: "if a slot machine/gambling (slot machines) was awarded then this would encourage the teenagers who were under eighteen a few years ago, to return where they once used to hang out and being of legal age start to cause problems again." (email from PC Stout, Fryent Safer Neighbourhood Team, Saturday 25 February 2012).

In reaching a judgement on a planning application, the local planning authority must often balance conflicting objectives and in order to do so, decision-makers must give weight to those objectives. In this particular case, your officers have given substantial weight to the concerns and fears local residents and the Metropolitan Police have that this land use would result in a return of significant anti-social behaviour and a decrease in community safety.

Your officers have given substantial weight to this issue because your officers believe these fears to be reasonably supported by the clarity of the testimony of the Metropolitan Police officer on both the history of anti-social behaviour at this location and in his conclusion that the proposed use would result in a significant increase in the number of youths and anti-social behaviour.

2.2 Proximity to sensitive uses

Policy SH13 sets out possible sensitive uses which include schools and religious buildings. No such uses adjoin the site and given the location on the busy Edgware Road, it is considered that this would be an appropriate location for such a use.

2.3 Traffic Impacts

There is no designated parking or servicing on site. Transportation have confirmed that parking and servicing requirements would be unaltered from the existing retail use. As such, the proposal is not considered to result any unacceptable transportation impacts.

2.4 Concentration of similar uses

The application site is located on Edgware Road where there are a wide variety of uses. It is noted there are betting offices on Edgware Road and objectors have noted that slot machines are already provided in public houses in the locality. This is an area with a wide variety of uses and given the range and overall provision of commercial uses, the proposal would not result in a concentration of similar uses. The slot machines provided in a public house are ancillary to the main function and would not require planning permission. As they are not the principle use, it is not considered that significant weight can be given to their provision when assessing the concentration of similar uses.

Conclusion

The proposed change of use would, on the balance of evidence provided, result in a return of youths congregating in this location with associated harm to community safety and an unacceptable worsening of the public's perception of crime, security and safety. This would result in harm to the amenity of local residents and would be contrary to policy SH13(a) of the UDP.

REASONS FOR CONDITIONS

RECOMMENDATION: Refuse Consent

CONDITIONS/REASONS:

- (1) The proposed change of use to Slot Machine Arcade (Sui Generis) would, on the balance of evidence provided, result in an increase in the number of youths congregating in this location with associated harm to community safety and an unacceptable worsening of the public's perception of crime, security and safety. This would result in unacceptable harm to the amenity of local residents and would be contrary to policy SH13(a) of the adopted Brent Unitary Development Plan.

INFORMATIVES:

None Specified

REFERENCE DOCUMENTS:

Any person wishing to inspect the above papers should contact Angus Saunders, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5017