

Nottingham City Council
Land and Planning Policies Document
– Local Plan Part 2
Hearing Statement

Name: Power Leisure Bookmakers Ltd

Representor: 3728

Policy / Issue / Matter: Policy SH2 / SH3 / SH7 / Paragraph 3.103

Matter 5 Issue 3

Hearing Session – 22 November 2018



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Report Reference:
16/3009

1. Background

- 1.1. In March 2016, we wrote on behalf of our client, Power Leisure Bookmakers Ltd, to make representations on Nottingham City Council's Publication Version of the Land and Planning Polices DPD: Local Plan Part 2 (see **Appendix 1**).
- 1.2. In November 2017, we submitted further representation on the Revised Publication Version of the Land and Planning Polices DPD: Local Plan Part 2 (see **Appendix 2**).
- 1.3. Our previously submitted representations have consistently:
 - Queried why betting shops have been grouped with pay day loan shops;
 - Requested that Paragraph 3.103 be removed as a means to policy formation;
 - That consideration i) of SH2, consideration h) of Policy SH3 and consideration d) of Policy SH7 be removed.
- 1.4. Ahead of the Examination in Public Sessions (EiP) on 27 November 2018, please find enclosed our 'Hearing Statement' relating to Nottingham City Council's Submission Version of the Land and Planning Policies Document – Local Plan Part 2.
- 1.5. This Statement is produced based on the Inspector's Matters, Issues and Questions raised in advance of the Hearing Sessions.
- 1.6. Power Leisure Bookmakers Ltd consider that the Local Plan fails to meet the tests of soundness and therefore does not accord with Paragraph 35 of the the National Planning Policy Framework (July 2018).

2. Response to the Inspector's Main Issues and Questions: Policy SH2

2.1. The Inspector has asked the following questions in relation to Policy SH2 ('Development within Primary Frontages':

Q3: "Is Section 2 of policy SH2 which relates to development other than retail (Class A1) justified and consistent with the Framework?"

Q5: "Is consideration 2 i) in policy SH2 (along with a similar consideration in policies SH3 and SH7) which indicates that proposals will be assessed against whether it would have a negative impact on the economic and social wellbeing of local residents justified and in particular in this context is the specific reference in the supporting text to Pay Day Loan Shops and Betting Shops justified? If so, is the consideration capable of effective implementation? How would the Council assess whether or not a proposal would have a negative impact on the economic and social wellbeing of residents?"

Q3: "Is Section 2 of policy SH2 which relates to development other than retail (Class A1) justified and consistent with the Framework?"

2.2. Section 19 of the Planning and Compulsory Purchase Act 2004 requires that Development Plan documents or any other local development document must have regard to national policy documents and guidance as in the National Planning Policy Framework ('NPPF'). For reasons set out below, Section 2 of the Land and Planning Policies Document is plainly contrary to the NPPF. Paragraph 35 of the NPPF states that a local planning authority should submit a plan for examination which it considers is sound – namely that it is: positively prepared; justified; effective; and consistent with national policy.

2.3. Additionally, Part 4 Regulation 8 of the 2012 Town and Country Planning (Local Planning) (England) regulations prescribes that that local plans must contain a reasoned justification of the policies. As set out in the NPPG (Paragraph 014. Reference ID: 12-014-20140306) "appropriate and proportionate evidence is essential for producing a sound Local Plan" and "evidence should be focused tightly on supporting and justifying the particular policies in the Local Plan".

2.4. First of all, we have no issue with the fact that the Council will want to scrutinise new betting shop applications and ensure that they will not lead to any concentrations which would lead to negative impacts, however, to assert unnecessary vetoes on areas where Betting Shop operators can locate as a starting point for all new applications (when there is no robust evidence to support the approach) is wholly unsubstantiated and does not allow officers/members to make objective decisions. It also places unnecessary burdens on betting shops operators who already need to submit an application when looking for new units. If Policy SH2 is found sound, it will mean that new betting shop operators will effectively be forced out of Nottingham, as there are simply too many hurdles to overcome.

2.5. We are concerned that the Council's stated justification seeking to implement further restrictions on betting shops, specifically the link between betting shops and the economic and social well-being of residents, has no evidence to support the claims made, which serves to undermine Section 2. The key reasons for this lie behind the content of [Paragraph 3.103](#), which states:

Nottingham has high levels of deprivation and poor health and was ranked as the 8th most deprived local authority out of 326 local authority districts in England according to the 2015 Index of Deprivation. Research on the spatial distribution of Pay Day Loan shops (and betting shops) shows that they tend to locate in areas which experience high levels of health and economic deprivation (e.g. research by Landman Economics 2014 and 'Betting, Borrowing and Health' – Southwark Council 2014). The Council will resist proposals which do not assist in reducing inequality and which may further harm the economic and social wellbeing of residents. In considering proposals, the Council will review the social and economic characteristics of the local area including reference to the Government's Indices of Deprivation and where appropriate information from other agencies on the nature of inequality and deprivation in the area.

- 2.6. The wording of this Paragraph suggests that betting shops and payday lender units are linked together. It is unclear why betting shops and money lenders have been grouped together within the policy. These uses, which are both Sui Generis and always require an application to be made, offer significantly different services/products. Specifically, betting shops offer a leisure activity, whilst money lenders offer a formal financial service – they should therefore not be linked together. The intention of this grouping should be clarified in the first instance.
- 2.7. We respond specifically on Policy SH2 consideration i) overleaf, making it clear why the Policy is unsound.

Q5: “Is consideration 2 i) in policy SH2 (along with a similar consideration in policies SH3 and SH7) which indicates that proposals will be assessed against whether it would have a negative impact on the economic and social wellbeing of local residents justified and in particular in this context is the specific reference in the supporting text to Pay Day Loan Shops and Betting Shops justified? If so, is the consideration capable of effective implementation? How would the Council assess whether or not a proposal would have a negative impact on the economic and social wellbeing of residents?”

- 2.8. Consideration i) has been formulated by the Council on evidence that conflicts with this consideration, including **unjustified** Paragraph 3.103. In the absence of robust, empirical and coherent evidence, consideration i) should be omitted from Policy SH2.
- 2.9. The plan has not been **positively prepared** as through Policy SH2 consideration i), it essentially restricts a viable town centre use within a Primary Frontage. Sui Generis uses are all typical town centre uses which provide a number of positive benefits. This approach is wholly unsubstantiated and should be addressed.
- 2.10. The evidence base for Policy SH2 consideration i), including those parts specifically relating to betting shops and payday loan companies, is the Retail Study (2015) and Southwark Council's Research Paper 'Betting, borrowing and health – Health impacts of betting shops and payday loan shops in Southwark' (March 2014).
- 2.11. Policy SH2's consideration i) is supposedly supported by the Council's Retail Study. However, there are a number of Centres that are described as 'vibrant', 'health' and 'busy', despite the presence of two or more betting shops (e.g. Bulwell, Hyson Green and Sherwood). Furthermore, whilst the Retail Study does

not provide a summary on the economic status of the local centres, vacancy levels provide one of the key performance indicators for assessing the relative health of centres, and measuring how their attraction and performance may be changing over time. When the study was commissioned, the UK average vacancy rates was 11.5%. There are a number of low vacancy rates in Local Centres where there is one or more betting shop operating including, Aspley Lane (8%), Bracebridge Drive (5%), Bramcote Lane (3%), Mansfield Road (5%), Strelley Road (0%). The Policy is therefore not **justified** or **effective**.

- 2.12. Considering the Retail Study, this document makes no reference to pawnbrokers, payday loan companies or betting shops at all. There is therefore nothing within the study to suggest that the presence of betting shops detrimentally impacts the social and economic wellbeing of residents. This is not sufficient locally-bound evidence to inform consideration i).
- 2.13. Southwark Council's Research Paper claims that problem gambling is linked to poor health and problem gamblers experience the worst health outcomes and tend to live in deprived areas.
- 2.14. The 2014 research paper states that: "Although many of these situational characteristics (e.g. concentration, clustering or proximity of venues) are thought to influence vulnerable gamblers, there has been very little empirical research into these factors and more research is needed before any definitive conclusions can be made. The scientific literature therefore falls short of supporting particular densities or exclusion/saturation distances for betting shops in the area." (paragraph 4.1.79).
- 2.15. Not only is this Policy therefore **unjustified**, but the promotion of health and well-being of residents should not be introduced as a planning consideration as this will undermine the role of the licensing authority whose duty is to assess such matters.
- 2.16. Betting shops are governed by the three gambling objectives. Betting shop operators wishing to open a new betting shop must demonstrate that their operation will:
- Prevent gambling from being a source of crime and disorder, being associated with crime or disorder, being used to support crime;
 - Ensure that gambling is conducted in a fair and open way; and
 - Protect children and other vulnerable people from being harmed or exploited by gambling.
- 2.17. When applying for a gaming license, betting shop operators must provide information and evidence demonstrating that they have appropriate training and management procedures / policies in place to show that they will comply with these objectives, including the protection of children and other vulnerable people, something that betting shop operators take very seriously. It would be unnecessary and inappropriate for this process to be duplicated via planning policy.

- 2.18. It is therefore important to note that the ‘Retail evidence base’ document relates to problem gambling which is already dealt with under the Licensing Act and a matter that cannot really be dealt with under the Planning system.
- 2.19. The evidence behind consideration i) does not justify its inclusion. The evidence the Council presents includes national indices of deprivation data and Household Survey results within the appendices of the 2015 Retail Study, which simply asked households where and how often visits were made to gambling premises (including bookmakers). None of the evidence provides any link between betting shops locating to areas with high levels of health and economic deprivation, nor does the evidence demonstrate that betting shops “harm the economic and social wellbeing of local residents”.
- 2.20. Our views on this spurious link have been accepted and taken forward by Local Planning Authorities, including Haringey Council. The Inspector did not accept that there was sufficient evidence to link betting shops with poor health and removed the claim from the text, as seen below.

DMMod97	Paragraph 6.55	<p><i>Amend paragraph 6.55 to read:</i></p> <p>The Public Health Directorate has published a Health Evidence Base (2012) to inform preparation of Haringey’s Local Plan. This highlights the <u>link between health outcomes and the proximity of betting shops. It concludes there is sufficient evidence to demonstrate that access to gambling venues, including betting shops, leads to increased gambling behaviour and that this, in turn, is associated with poor health outcomes spatial distribution of licensed betting shops in Haringey. The baseline information has since been updated using the Council’s licensing data (2016), which shows a notable concentration of betting shops in town centres, particularly in Wood Green and Tottenham, when compared to elsewhere in the Borough.</u></p>
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- 2.21. Subsequently, we therefore consider consideration i) to be **unjustified** and we do not believe it has been **positively prepared**. It is clear that the Council has not adopted the most appropriate strategy based on the evidence they have gathered. There are no other references to any other operators or any other negative implications within Policy SH2 and therefore consideration i) is immaterial given it has been formulated on inaccurate justification text (Paragraph 3.103).

3. Response to the Inspector’s Main Issues and Questions: Policy SH3 and Policy SH7

- 3.1. The Local Plan indicates that the justification text – namely Paragraph 3.103 - to Policy SH2 is also relevant to Policy SH3 and SH7, adding that ‘the Council will carefully consider and resist proposals which could have a negative impact on the economic and social wellbeing of residents’. Consideration f) of Policy SH3 and consideration d) of policies SH3 and SH7 are worded identically to consideration i) of Policy SH2.
- 3.2. Our comments regarding consideration i and Paragraph 3.103 are therefore applicable to the questions the Inspector has raised with regard to Policy SH3 and SH7.

4. Summary

- 4.1. In our view Policy SH2 consideration i) and justification text Paragraph 3.103 are not **justified, effective**, have not **been positively prepared** and are therefore **not consistent** with the NPPF. Both are not founded on a robust evidence base and as demonstrated within this statement, have been found to be based on inaccurate assumptions and misinterpretations of data.
- 4.2. This Policy therefore amounts to a conflict with Section 19 of the Planning and Compulsory Purchase Act 2004 and also conflicts with Part 4 Regulation 8 of the 2012 Town and Country Planning (Local Planning) (England) Regulations.
- 4.3. We have no issue with the fact that the Council will want to scrutinise new betting shop applications and ensure that they will not lead to any clusters or concentrations which would lead to negative impacts, however, to forge a link between the economic and social wellbeing of local residents and betting shops is unacceptable, reaffirmed upon review of the evidence which does not, and cannot, substantiate this claim in any way.
- 4.4. Paragraph 3.10.3 links high levels of deprivation to the presence of betting shops. This strong summation does not accord with the findings of the Local Plan's evidence base, which points to low vacancy rates as well as 'vibrant and healthy' Centres where there are two or more betting shops. "High levels of health and economic deprivation" cannot, unequivocally, be linked to betting shops, reflected in a number of Local Planning Authorities editing policies that had previously forged direct links between betting shops and health and well-being. If Paragraph 3.103 and Policy SH2 are found sound, this will allow compliant betting shop applications to be refused.
- 4.5. It is also clear that the health impact of a new betting shop is already comprehensively covered via licensing and we will be attending the Examination in Public to discuss these matters with the Inspector and Council in further detail.

Planning Policy Team
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11 March 2016

Our Ref: 16/3009

Dear Sir/ Madam,

REPRESENTATION ON NOTTINGHAM CITY COUNCIL'S LOCAL PLAN PART 2 DOCUMENT – PUBLICATION VERSION

We write on behalf of our client, Power Leisure Bookmakers Ltd, to make representations to the Land and Planning Policies DPD: Local Plan Part 2 Publication Version consultation (hereafter referred to as the 'LAPP').

Section 19 of the Planning and Compulsory Purchase Act 2004 requires that development plan documents or any other local development document must have regard to national policy documents and guidance as in the NPPF. For reasons set out below, this draft document is plainly contrary to the NPPF.

Part 4 Regulation 8 of the 2012 Town and Country Planning (Local Planning) (England) regulations prescribes that that local plans must contain a reasoned justification of the policies. As set out in the NPPG (Paragraph 014. Reference ID: 12-014-20140306) "appropriate and proportionate evidence is essential for producing a sound Local Plan" and "evidence should be focused tightly on supporting and justifying the particular policies in the Local Plan". Paragraph 182 of the NPPF states that a local planning authority should submit a plan for examination which it considers is sound – namely that it is: positively prepared; justified; effective; and consistent with national policy. It is considered that the Plan is not justified, as it is not founded on a robust and credible evidence base, particularly in relation to betting shops.

The Council will also be aware that as a regulator they must comply with the Regulators' Code (April 2014), laid down in parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006. The Code seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate to reduce regulatory burdens on businesses.

Our representation letter focuses on Policies SH2, SH3, SH7 and Paragraphs 3.103, 3.110 and 3.135. We first look in turn at what each policy and paragraph states and we then we turn to our objection. The policies / paragraphs are considered in the order they appear within the LAPP document.

Directors
Helen Cuthbert | Stuart Slatter | Claire Temple
Associate Director
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Consultants
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Objection Response

Prior to turning to the specific objection comments, it is important to highlight that we agree that non-A1 proposals as outlined within Policy SH2, SH3 and SH7 should be adequately assessed so that they do not harm the retail function and character of a frontage and they maintain or enhance the vitality and viability of a Centre. Similarly we also agree that it is not appropriate to apply general threshold policies in designated frontages as these do not allow or encourage individual centres or frontages and their composition and function to be properly assessed.

However, we believe that the wording of consideration (a) of Policy SH2 and consideration (b) of Policy SH3 is unmeasurable and therefore it isn't **'effective'**. There is a real danger that adopting such an unmeasurable approach will effectively put a moratorium on such new uses in centres and potentially encourage new operators and uses out of centres.

It is important to note that betting shops and the majority of other non-A1 uses are typical town centre uses, and collectively they will no doubt amount to a high proportion of uses within centres already (prior to the adoption of these policies). There is also no doubt that many of these centres with varying quantities of non-A1 uses will be healthy. Clearly such an approach is inappropriate and would fly in the face of the town centre first policy as set out in the NPPF, which seeks to encourage town centre shops and services to locate within centres, rather than out of centre.

We are also concerned that the content of Paragraph 3.103 (used to justify consideration (i) of Policy SH2; consideration (f) of Policy SH3 and consideration (d) of Policy SH7), which is repeated in Paragraphs 3.110 and 3.135 is unjustified and the Council have failed to present any evidence that suggests that "Pay Day Loan shops (and betting shops) tend to locate in areas which experience high levels of health and economic deprivation."

We strongly suggest that the Council revisits this proposed approach as there is a clear overall conflict with paragraph 23 of the NPPF which states that policies should be positive and promote competitive town centres. Bullet point 4 of this paragraph states that LPAs should "promote competitive town centres that provide customer choice and a diverse retail offer and which reflect individuality of town centre." Policies SH2, SH3 and SH7 are likely to have a serious impact on particularly industries and health competition between different operators by preventing new operators from locating within a particular centre.

Again, regard needs to be had to the very real impact that the document is likely to have on a number of different industries and the clear conflict that would arise with the NPPF.

Concentration and Clustering of a Single Use

On review of consideration (a) of Policy SH2 and consideration (b) of Policy SH3 we believe them to be unmeasurable as they fail to provide the applicant or the officer considering a proposal for the non-A1 proposal with specific guidelines on what constitutes an acceptable number and concentration of a singular non-A1 use, or what an acceptable or unacceptable cluster of a single use actually is. The two considerations to policies SH2 and SH3 also fail to distinguish between non-A1 uses, offering an applicant no real or tangible opportunity to demonstrate why a specific proposal will not lead to an unacceptable number, concentration or cluster of a specific use. This creates an opportunity for proposals to be assessed subjectively, rather than on quantifiable and measurable evidence; of which there is none within the supporting evidence base.

We wish to draw attention to a recent Paddy Power appeal decision (ref: APP/U5930/A/14/2229533) at 620 High Road, Leytonstone which was allowed on 22 April 2015. The decision was made after betting shops became SG uses. The proposal would result in 6 betting shops in the centre, a figure which the Inspector considered to be "a low figure when compared with a comparison of other non-A1 uses in the centre."

There was an existing betting shop within the same parade as the application site (4 units along) and an existing betting shop opposite the application site on the other side of the road. The Inspector concluded that:

"I do not consider that an additional betting office within the immediate area would result in a significant alteration to this balance, or result in a clustering effect that would be detrimental to the retail attraction of the immediate area or wider centre."

The Inspector later stated:

"As I found with the previous section, the proposal would not result in any significant clustering concerns."

The Inspector's comments are relevant in this instance. Firstly, the Inspector considered that 6 betting shop uses was appropriate in the context of the centre. Secondly, the Inspector considered that betting shops in more than 1 in 21 premises would be appropriate, however the wording of consideration (a) of Policy SH2 and consideration (b) of Policy SH3 does not provide any clarity on what is appropriate nor does it allow for centres to be judged on their specific merits.

We therefore conclude that consideration (a) of Policy SH2 and consideration (b) of Policy SH3 should be reworded, so that proposals can be assessed on a site by site and a centre by centre basis. Greenwich Council's betting shop policy provides a good example of a 'model policy' that is appropriate and compliant with the aspirations of both national and local policy. The policy states:

"When determining applications for new betting shops within protected retail frontages, consideration will be given to the number of existing betting shops in the centre and the need to avoid over-concentration and saturation of this particular type of use."

We suggest that Nottingham Council consider incorporating the wording of Greenwich Council's betting shop policy within policies SH2 and SH7, particularly as it allows for centres to be considered on their own specific merits. At present, in this regard, the draft policy is not **'justified'** or **'consistent with national policy'**.

Economic and Social Wellbeing

As stated above the Council provide no evidence to prove that Pay Day Loan shops and betting shops tend to locate in areas which experience high levels of health and economic deprivation. The evidence the Council do present includes national indices of deprivation data and the Household Survey Results within the appendices of the 2015 Retail Study produced by Carter Jonas, which simply asked households where and how often visits were made to gambling premises (including bookmakers). None of the evidence provides any link between betting shops locating to areas with high levels of health and economic deprivation, nor does the evidence prove that betting shops "have a negative impact on the economic and social wellbeing of local residents." We therefore consider it to be **unjustified, ineffective** and we do not believe it has been positively prepared.

Nationally there has been numerous studies in to the link between health and the proximity of betting shops, however in all cases it is confirmed that there is not enough empirical evidence to prove that betting shops exacerbate existing economic and social characteristics of an area or of its population.

It should be emphasised that perceived issues relating to gambling is a matter already dealt with under the Licensing Act and a matter than cannot really be dealt with under the Planning System. It is important to note that gambling is one of the most heavily regulated activities in the country which has resulted in a socially responsible industry. Betting shops are governed by the three gambling objectives. Betting shop operators wishing to open a new betting shop must demonstrate that their operation will:

1. Prevent gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
2. Ensure that gambling is conducted in a fair and open way; and
3. Protect children and other vulnerable people from being harmed or exploited by gambling.

As such, when applying for their gaming licence, betting shop operators must provide information and evidence demonstrating that they have appropriate training and management procedures/policies in place to show that they will comply with these objectives, including the protection of children and other vulnerable people, something that betting shop operators take very seriously. This of course includes being members of various schemes. For example, Paddy Power was a founding member of the Senet Group, an independent body set up to promote responsible gambling standards. They are also certified by Gamcare, as are the majority of the major betting shop operators.

Failure to demonstrate compliance with the objectives means that a licence will not be granted, and of course, if at any time a betting shop operator is found not to be complying with the objectives in the future, their licence can be reviewed and ultimately revoked. Where the licensing authority has any concerns about a new operation when considering a licence application, they are perfectly entitled to impose conditions on a licence to ensure that additional measures/policies/procedures are put in place.

Taking this into consideration and in summary, we do not believe that the Council should not include Paragraph 3.103 (used to justify consideration (i) of Policy SH2; consideration (f) of Policy SH3 and consideration (d) of Policy SH7), which is repeated in Paragraphs 3.110 and 3.135 as a means to policy formulation when this matter is dealt with under the Licensing Act.

It is considered therefore that reference to the how betting shops exacerbate existing economic and social characteristics of an area or of its population should be removed from the supporting text of policies SH2, SH3 and SH7 as it is not 'justified' or based on a credible evidence base.

Summary and Conclusions

In our view policies considerations (a) and (i) of Policy SH2, (b) and (f) of Policy SH3 and (d) of Policy SH8 and supporting text in paragraphs 3.103, 3.110 and 3.135 are not **'justified'**, **'positively prepared'** or **'consistent with national policy'**. The policy and reasons are not founded on a robust and credible evidence base. Furthermore, the aforementioned considerations within the policies and supporting text is not consistent with national policy. The damming and very specific approach taken by the Council in relation to betting shops is not compliant with the spirit and aspirations of the NPPF. The content of the policies therefore amounts to a conflict with Section 19 of the Planning and Compulsory Purchase Act 2004 and also conflicts with Part 4 Regulation 8 of the 2012 Town and Country Planning (Local Planning) (England) Regulations.

We have no issue with the fact that the Council will want to scrutinise new betting shop applications and ensure that they will not lead to any clusters or concentrations which would lead to negative impacts, however, failing to provide measurable guidelines and not allowing proposals to relate to the context of their specific location as a starting point for all new applications that are not based on a robust and credible evidence base is wholly unsubstantiated and does not allow officers/members to make objective decisions.

Indeed, if the decision-makers are told that betting shops exacerbate existing social and economic issues, many will naturally conclude that an additional betting shop in an area would result in an area being at high risk of adverse impacts and there will be a tendency to conclude that the application should be refused. This is clearly

unacceptable, particularly given that there is not specific robust and credible evidence to back up the document's presumptions in this regard.

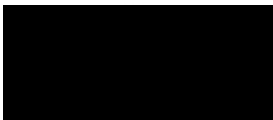
We conclude that the consideration (a) and of Policy SH2 and (b) of Policy SH3 should be re-worded in-line with Greenwich Council's model policy (as detailed above), and that consideration (i) of Policy SH2, consideration (h) of Policy SH3 and consideration (d) of Policy SH7 should be re-worded and that Paragraph 3.103 (repeated in Paragraphs 3.110 and 3.135) is removed, or as a minimum the reference to betting shops is removed.

We suggest that Nottingham consider the points raised within this representation. If the changes suggested within this representation were adopted, we would then consider the Plan 'sound'.

We would be grateful if you would take the above comments on board in the preparation of the Plan and request that you keep us informed on further progress and dates for the Examination in Public.

We would be grateful for confirmation of receipt of this representation.

Yours sincerely,

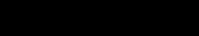
A black rectangular redaction box covering the signature of Sam Deegan.

Sam Deegan

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06 November 2017

Our Ref: 16/3009

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Part 4 Regulation 8 of the 2012 Town and Country Planning (Local Planning) (England) regulations prescribes that that local plans must contain a reasoned justification of the policies. As set out in the NPPG (Paragraph 014. Reference ID: 12-014-20140306) "appropriate and proportionate evidence is essential for producing a sound Local Plan" and "evidence should be focused tightly on supporting and justifying the particular policies in the Local Plan". Paragraph 182 of the NPPF states that a local planning authority should submit a plan for examination which it considers is sound – namely that it is: positively prepared; justified; effective; and consistent with national policy. It is considered that the Plan is not justified, as it is not founded on a robust and credible evidence base, particularly in relation to betting shops.

The Council will also be aware that as a regulator they must comply with the Regulators' Code (April 2014), laid down in parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006. The Code seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate to reduce regulatory burdens on businesses.

Our representation letter focuses on Policies SH2, SH3, SH7 and Paragraphs 3.103, 3.110 and 3.135. We first look in turn at what each policy and paragraph states and we then we turn to our objection. The policies / paragraphs are considered in the order they appear within the LAPP document.

Directors
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Objection Response

First and foremost, we have no issue with the fact that the Council will want to scrutinise new betting shop applications to ensure that they play a positive role within centres. We therefore agree with Policy SH2(a) that the existing proportion of retail A1 uses and the number, proximity and distribution of uses other than retail will be considered. We also concur that whether the development would result in or add to an over-domination of non-retail uses should be assessed.

However, we are alarmed that the supporting information that underpins policies SH2 and SH3 is not predicated on a robust evidence base. The content of Paragraph 3.103 (used to justify consideration (i) of Policy SH2; consideration (f) of Policy SH3 and consideration (d) of Policy SH7), which is repeated in Paragraphs 3.110 and 3.135 is unjustified and the Council have failed to present any evidence that suggests that "Pay Day Loan shops (and betting shops) tend to locate in areas which experience high levels of health and economic deprivation." On the contrary, the Council's own evidence base points to a number of district centres that are far from economically deprived and, rather, performing well *despite* the presence of betting shops.

Economic and Social Wellbeing

The LPA claims that the evidence presented 'amplifies the justification for the approach taken in the Local Plan'. However, the Council provides no evidence to prove that Pay Day Loan shops and betting shops tend to locate in areas which experience high levels of health and economic deprivation. This includes the 2015 Retail Study conducted by Carter Jonas and 2017 Retail Background Paper Addendum. There are also fleeting references to other studies, including a literature review conducted by Southwark Council and analysis published in December 2014 by Landman Economics that mapped the location of betting shops in deprived areas. To that end, we have considered this evidence base to try and increase our understanding behind the claims that are made.

The evidence the Council does present includes national indices of deprivation data and the Household Survey Results within the appendices of the 2015 Retail Study produced by Carter Jonas, which simply asked households where and how often visits were made to gambling premises (including bookmakers). None of the evidence provides any link between betting shops locating to areas with high levels of health and economic deprivation, nor does the evidence prove that betting shops "harm the economic and social wellbeing of local residents." We therefore consider it to be unjustified, ineffective and we do not believe it has been positively prepared.

Given the strong claim within the supporting information (paragraph 3.102) regarding the location of betting shops, it would be expected that the documents mentioned above would account for the research and evidence gathered to justify such a grave concern.

However, reviewing the 2015 Retail Study has only added to our apprehension as it, very usefully, provides an economic summary of Bulwell Town Centre and the City Council's three District Centres.

Furthermore, the Report by the Local Data Company (April 2014), Commissioned by Association of British Bookmakers confirms the location of betting shops according to an areas level of deprivation. The results show that:

- 17% of all betting shops are located in the 'most deprived' (4th quartile) areas;
- 27% of all betting shops are located in the 3rd quartile areas;
- 35% of all betting shops are located in the 2nd quartile areas; and
- 21% of all betting shops are located in the 'least deprived' (1st quartile) areas.

Arbitrary data versus Retail Study comprises soundness

Nationally, numerous studies have been commissioned linking health and the proximity of betting shops. However, in every case, the studies conclude that there is not enough empirical evidence to prove that betting shops exacerbate existing economic and social characteristics of an area or its population.

Reflecting on the Council's own evidence base, the 2015 Retail Study states that the Nottingham City Council area contains one town centre (Bulwell) on the north-western outskirts of the City, the district centres of Clifton, Hyson Green and Sherwood, and twelve local centres. The quotes below are lifted directly from the Study:

- *Bulwell is currently a vital and viable centre* (Betfred, William Hill and Ladbrokes)
- *Clifton is currently a healthy centre* (Betfred)
- *Hyson Green is a vibrant and vital centre* (Betfred and Ladbrokes)
- *Sherwood is a busy and healthy centre* (Coral, Ladbrokes and William Hill)

This raises questions as to whether the supporting text has been 'positively prepared'. No references have been made to the positive health of the centres and the presence of operating betting shops. Furthermore, whilst the Retail Study does not provide a summary on the economic status of the local centres, vacancy levels provide one of the key performance indicators (KPIs) for assessing the relative health of centres, and measuring how their attraction and performance may be changing over time. When the study was commissioned, the UK average vacancy rate was 11.5%. There are a number of low vacancy rates in Local Centres where there is one or more betting shop operating, including:

- Aspley Lane (8%)
- Bracebridge Drive (5%)
- Bramcote Lane (3%)
- Mansfield Road (5%)
- Strelley Road (0%).

These findings do not accord with paragraph 3.103, which states that 'research on the spatial distribution of Pay day Loan shops (and betting shops) shows that they tend to locate in areas which experience high levels of health and deprivation'. Not only is this pejorative, but unfounded and predicated on data that points to generic themes, which is not specific to Nottingham, unlike the Retail Study.

Grouping Betting Shops and Payday Loan Shops

There is no relationship between pay day loan shops and betting shops and we do not consider it appropriate to group betting shops and pay day loan shops together as they offer entirely different services to their respective customers. The 'strong body of evidence' that the Background Paper Addendum refers to is irrelevant and does not demonstrate that pay day loans and betting shops exacerbate deprivation. Simply put, betting shops offer a leisure activity, whilst money lenders offer a formal financial service – they should therefore not be linked together. The supporting evidence for Policies SH2 and SH3 is therefore immaterial and not 'justified'.

Unjustified results skews evidence

The Council's Retail Background Paper Addendum alludes to the much-debated and subjective findings of Southwark Council's research ('Betting, borrowing and health – Health impacts of betting shops and payday loan shops in Southwark') in to controlling the location of betting shops and pay day loans. The Report claims that problem gambling is linked to poor health and problem gamblers experience the worst health outcomes and tend to live in deprived areas.

Nationally, on a much bigger scale, there has been numerous studies in to the link between health and the proximity of betting shops, however in all cases it is confirmed that there is not enough empirical evidence to prove that betting shops exacerbate existing economic and social characteristics of an area or of its population.

Regardless of Southwark’s (unjustified) observation, it should be emphasised that perceived issues relating to gambling is a matter already dealt with under the Licensing Act and a matter than cannot really be dealt with under the Planning System. It is important to note that gambling is one of the most heavily regulated activities in the country which has resulted in a socially responsible industry. Betting shops are governed by the three gambling objectives. Betting shop operators wishing to open a new betting shop must demonstrate that their operation will:

1. Prevent gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
2. Ensure that gambling is conducted in a fair and open way; and
3. Protect children and other vulnerable people from being harmed or exploited by gambling.

As such, when applying for their gaming licence, betting shop operators must provide information and evidence demonstrating that they have appropriate training and management procedures/policies in place to show that they will comply with these objectives, including the protection of children and other vulnerable people, something that betting shop operators take very seriously. This of course includes being members of various schemes. For example, Paddy Power was a founding member of the Senet Group, an independent body set up to promote responsible gambling standards. They are also certified by Gamcare, as are the majority of the major betting shop operators.

Failure to demonstrate compliance with the objectives means that a licence will not be granted, and of course, if at any time a betting shop operator is found not to be complying with the objectives in the future, their licence can be reviewed and ultimately revoked. Where the licensing authority has any concerns about a new operation when considering a licence application, they are perfectly entitled to impose conditions on a licence to ensure that additional measures/policies/procedures are put in place.

Recognising the lack of relationship between betting shops and health

We have started to witness in recent months a number of Local Planning Authorities editing policies that had previously forged direct links between betting shops and health and well-being following consultation on draft versions. Only last month, Redbridge Council as part of their Main Modifications Consultation to the Redbridge Local Plan removed the need to demonstrate how betting shops will promote the health and wellbeing of borough residents.

CE058

Modification Number	Page	Para/ Policy/ Section	Detail of Modification	Source/ Reason of Modification
			<p><u>2. The Council will resist the proliferation and overconcentration of betting/gambling shops, and money lenders (A2) and Shisha Bars (sui generis) in the borough by:</u></p> <p><u>(a) Requiring them to be located within the borough’s town centres (Metropolitan, District and Local) and in accordance with LP10;</u></p> <p><u>(b) Seeking them to demonstrate how they will promote the health and wellbeing of borough residents; Requiring each new sui generis unit to be separated from any existing sui generis unit or group of units by at least two non sui generis units;</u></p> <p><u>(c) Requiring that no more than one Betting/Gambling Shop or Payday Lender is located within a 50m radius of an existing Betting shop or payday lender unit; and</u></p> <p><u>(d) (c) Requiring they provide active frontages and have a positive visual impact on the street scene, including meeting policy LP28 – Advertising and Shopfronts;</u></p> <p><u>The Council will resist the development of Shisha Bars (Sui Generis) in the borough by:</u></p>	

This has also been recognised in Haringey’s Development Management DPD, which recently went through an Examination in Public. The Inspector did not accept that there was sufficient evidence to link betting shops with poor health and removed the claim from the text, as seen below.

DMMod97	Paragraph 6.55	<p><i>Amend paragraph 6.55 to read:</i></p> <p>The Public Health Directorate has published a Health Evidence Base (2012) to inform preparation of Haringey’s Local Plan. This highlights the <u>link between health outcomes and the proximity of betting shops. It concludes there is sufficient evidence to demonstrate that access to gambling venues, including betting shops, leads to increased gambling behaviour and that this, in turn, is associated with poor health outcomes spatial distribution of licensed betting shops in Haringey. The baseline information has since been updated using the Council’s licensing data (2016), which shows a notable concentration of betting shops in town centres, particularly in Wood Green and Tottenham, when compared to elsewhere in the Borough.</u></p>
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Conclusion

Taking this into consideration and in summary, we do not believe that the Council should include Paragraph 3.103 (used to justify consideration (i) of Policy SH2; consideration (f) of Policy SH3 and consideration (d) of Policy SH7), which is repeated in Paragraphs 3.110 and 3.135 as a means to policy formulation when this matter is dealt with under the Licensing Act.

It is considered therefore that reference to the how betting shops exacerbate existing economic and social characteristics of an area or of its population should be removed from the supporting text of policies SH2, SH3 and SH7 as it is not ‘justified’ or based on a credible evidence base.

The spurious conclusions that have been drawn have originates from evidence that has been gathered that is not relevant to Nottingham City Council’s District Centres, which are performing well as per the 2015 Retail Study. We hope Nottingham City Council joins the ever growing list of Local Planning Authorities that have reevaluated the link between betting shops and health and well-being – principally because there isn’t one.

We suggest that Nottingham City Council consider the points raised within this letter and take our clients comments into consideration in the preparation of the plan and request that you keep us informed on further progress and consultations.

Yours sincerely



Sam Deegan MRTPI

Senior Planner

Planning Potential

Harrogate