PLANNING AND DESIGN & ACCESS STATEMENT

PROPOSED CHANGE OF USE FROM BANK TO AMUSEMENT CENTRE (ADULT GAMING CENTRE) (sui generis)

GROUND FLOOR
20 MIDDLETON GARDENS
MIDDLETON
MANCHESTER
M24 4DF

APPLICANT: **Application by Jeffries Amusements**

APPLICANT'S AGENT: **ROGER ETCHELLS**

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1. INTRODUCTION

1.1 The application seeks planning permission for a change of use of ground floor premises from the present vacant bank (Virgin Money) use to an amusement centre (Adult Gaming Centre), a sui generis use commonly found in town and district centres. Permission is not sought for any alterations.

1.2 The proposal is a relocation of the applicants business from its current location opposite at 39-41 Middleton Gardens. Those premises will close with the relocation of the business to this site.

1.3 The premises occupy the ground floor of a 3 storey building split into 3 units. There are 2 units at ground floor level; a jeweller and the subject premises and the entrance to the upper floors. The 2 upper floors are occupied the Upper Room Christian Fellowship.

1.4 They lie on the north side of Middleton Gardens with Factory Street to the rear. Middleton Gardens is a pedestrianised area on the east side of the Middleton Shopping Centre (formerly an Arndale shopping centre).

1.5 The previous occupiers (Virgin Money) closed last year.

2. ASSESSMENT

2.1 The property comprises ground floor and a small mezzanine with staff accommodation. Like the applicants current premises it is not listed but is in a the Middleton Town Centre Conservation Area. Please see the Heritage Statement accompanying this document.

3. INVOLVEMENT/CONSULTATION

3.1 The applicant's advisors and planning consultants and the landlord have discussed the matter prior to presenting this application. There have been no discussions with the LPA as recorded on the application forms.

3.2 The applicants agent discussed the matter with 2 planning officers following the refusal of permission initially under reference 20/00786/FUL including the original case officer, Luke Ashley and has concluded that a formal offer of a S106 undertaking should be made to give the LPA certainty that only a single adult gaming centre will be operated by the applicant in Middleton Gardens by guaranteeing the closure of the existing premises which have traded there for 30+ years.

4. PROPOSAL

4.1 The proposal is for a change of use of the former bank. No alterations are proposed to the frontage or the exterior of the premises.

4.2 The other uses in the building would not be affected.

4.3 The various ground floor **uses** in the area reflect the character of this part of the town centre being outside the main concentration of retail uses in the Middleton Shopping Centre. The existing and proposed **layouts** of the premises are shown on application drawing RE/MID/20/02 and 01.

4.4 The **amount** of commercial floorspace involved is 288 sq m on the ground floor and 28 sq m on the mezzanine.

4.5 The **scale** of the proposal as a shopper orientated amusement centre is consistent with the surroundings. In terms of **appearance** the proposal will not change: their traditional/existing appearance will be maintained including the guarantee of a window display.

4.6 No **landscaping** is proposed.

Amusement Centre Use

4.7 The proposal is for an adult only amusement centre consisting of gaming machines being a relocation of the applicants existing business. Such establishments are common features in town centres. They have different effects from amusement arcades. There is a statutory obligation to exclude under 18's.

4.8 Premises such as this are no noisier than a shop or the previous use that occupied the premises. They would be suitable neighbours on the street in this location just as they have been opposite for over 30 years.

4.9 Customer Usage - It is generally accepted that this kind of establishment attracts the same type of person as nearby shops. It also attracts them in similar numbers. There is considerable evidence confirming these characteristics which can be provided if requested.

4.10 Appearance **-** The proposal would have a similar appearance to a shop but with the guarantee of a window display through a condition requiring it to be maintained at all times.

4.11 Amusement centres of this kind are harmless to nearby traders as is apparent from the existing ones in Middleton. They do not cause noise or disturbance.

4.12 I am confident that the proposal will:

(1) have no adverse impact on retailing activity;

(2) not harm the character or trade of the shopping centre;

(4) maintain the vitality of the shopping centre;

(5) maintain the evening economy.

4.13 There is considerable evidence confirming these characteristics of this form of amusement centre which can be provided if requested.

4.14 No alterations are proposed to the exterior of the property as part of this application. The application is for a change of use only.

5 ACCESS

5.1 The proposal is in a major town centre shopping area. It could not be better located in terms of accessibility by all means of transport (foot, cycle, car and public transport).

6. PLANNING POLICY

6.1 The trend of national policy guidance towards non-retail uses has, since the issue of DCPN11 in 1985, been towards increased diversification through successive versions of versions of PPG6, PPS6 and the Portas Review.

6.2 Perhaps as a result, the NPPF and PPG have limited content on the make-up of town centres but note that, according to the NPPF planning policies (and presumably by extension decisions) should promote 'long term vitality and viability' allowing centres to 'grow and diversify'.

6.3 In applying local policies one must bear in mind the trend of government guidance towards more flexibility of use. Deregulation in the form of changes to the GDO over the last few years allowing greater flexibility of use and treating some changes from A1 use as permitted development is an indication that a highly restrictive approach to the issue of maintaining retail use (which is not relevant in this case anyway – given its non-retail history) is increasingly obsolete. This view is reinforced by the introduction of the new use classes order in September 2020 under which a multitude of non-retail uses including uses which make no contribution to a shopping area (eg uses formerly in Class B) are now included in Class E and would not require planning permission to occupy this site.

6.4 I consider there is no conflict with national policy.

6.5 The relevant local policies are contained in the **Rochdale UDP** which was adopted in June 2006. However, the plan making process goes back to its first draft in 2002. Many of its policies go back to its predecessor of 1999.

6.6 Since then attitudes (reflected partly in changes to the use classes order) to increasing the range of non-retail uses in better shopping locations has drastically changed.

6.7 Policy G/S/2 promotes town centres as the principal location for, inter alia, leisure uses. The application site is shown on the Proposals Map as being in the towns 'Secondary Shopping Area'. Policy S/3 for the 'Primary Shopping Area' would not prevent the change of use of the subject premises to the proposed use since

it applies only to changes from retail and this proposal concerns a change from one non-retail use to another.

6.8 The relevant policy for this area, however, is policy S/4. The applicants existing premises which are being relocated in this application are in the same policy area. On the face of it the policy only permits the development of or change of use to Class A1, A2 and A3 uses. This, however, is a policy which (if it applies at all to a relocation) is out of date. How outdated is exemplified by the fact that it comes from a time when A3 uses included those we now know as A4 and A5 uses. Further, it has to be applied with great flexibility because:-

1. It predates the appreciation of the benefits of a broader range of uses including leisure uses in good shopping locations.
2. It predates changes to the Use Classes Order and to permitted development which has allowed greater flexibility of use in town centres (and elsewhere) including the radical changes in September 2020.
3. It treats what are now A5 uses which are often closed for much of the shopping day as preferable to the proposed use.
4. If read inflexibly it would prevent a use which has operated successfully and without harm in the secondary shopping area for over 30 years from continuing to do so in this new location.

6.9 In relation to the final point it cannot be suggested that the applicant, as it wants to relocate, should move to a less favourable location outside the secondary shopping area.

6.10 The proposal is also consistent with Leisure Policy LT/3 being compliant with all the considerations a – e. Above all in relation to this policy it is consistent with L/T3 e in that no harm would be caused to the appearance of the area, to the conservation area, to residents or existing businesses.

6.11 I see no material conflict with any relevant development plan policy, albeit out of date in the respects set out above, and I therefore conclude the proposal has a presumption in its favour. Further, I conclude that the proposal would have no adverse effect on the vitality or viability of the town centre.

7 PLANNING MERITS

7.1 The proposal has, in addition, a number of other material considerations in its favour:-

- Investment in the premises and in the centre.
- Bringing the premises back into use.
- The updating and improvement of a vital and busy local business use.
- Maintaining and enhancing the vitality of this part of the shopping centre.

7.2 The applicant puts forward a draft Undertaking under S106 to ensure its existing premises close down if any permission granted is taken up.

8 CONCLUSIONS

8.1 The proposal accords with national policy.

8.2 There is no material conflict with any local plan policy.

8.3 There are other material considerations which reinforce the presumption in favour of granting permission.

8.4 The proposal would maintain and enhance the vitality and viability of this shopping centre.

Roger Etchells

January 2021