

APPLICATION NUMBER: 22/01247/VRCON

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
22/01247/VRCON	Ryan Killeen	20 December 2022

Address: 20 Middleton Gardens Middleton M24 4DF

Proposal: Section 73 application to vary condition 3 (opening hours) of planning permission 20/00786/FUL to Sunday to Thursday 0800 to 2300 and Friday and Saturday 0800 to 0000

PUBLICITY	Weekly list expired?	Y	Site notice expired?	Y
	Neighbour letters expired?	Y	Press Notice expired?	Y

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	N

EIA	Screening opinion completed and saved to Onbase?	N
-----	--	---

CONDITIONS	Pre-commencement conditions proposed?	N
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION	GRANT SUBJECT TO CONDITIONS
----------------	-----------------------------

CHECKED AND SIGNED OFF BY: AT

DATE: 03.01.2023

SITE

This application relates 'Jeffries Amusements', a ground floor unit of a three-storey property set centrally in a terrace comprising a mixture of buildings within the Middleton Gardens shopping area with an authorised use as an Adult Gaming Centre. The site is allocated within the Middleton Long Street Secondary Shopping Area and Middleton Town Centre under the relevant saved Rochdale Unitary Development Plan (2006) Proposals Map

The wider shopping area comprises a pair of retail frontages sited around a pedestrianised area which is attractively landscaped following extensive redevelopment within the past decade. The frontage containing the application property runs linearly along a north-south axis with the additional frontage running linearly from southwest to northeast. The two limbs bifurcate at the base of Long Street, to the northern section of this shopping area. The prevailing townscape is of medium rise development no taller than four storeys.

To the west of the site is Middleton Shopping Centre, a substantial indoor shopping centre and multi-storey car park with a footprint of approximately 2ha.

PROPOSAL

The application seeks to vary condition 3 (opening hours) of Planning Permission 20/00786/FUL, which sought to change the use of the building from a bank to an adult gaming centre. This permission was allowed on appeal on 1st July 2021.

Condition 3 of the Planning Inspectorates decision reads:

- 3 *The use hereby permitted shall not be carried out outside the following times:
0900 to 2100 hours Mondays to Sundays, Bank and Public Holidays.*

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Adopted Rochdale Core Strategy (CS):

SO1 Delivering a more prosperous economy

- E1 Establishing thriving town, district and local centres
E2 Increasing jobs and prosperity

SO3 Improving design, image and quality of place

- P1 Improving image
P2 Protecting and enhancing character, landscape and heritage
P3 Improving design of new development

SO4 Promoting a greener environment

- G9 Reducing the impact of pollution, contamination and land instability

SO5 Improving accessibility and delivering sustainable transport

- T2 Improving accessibility

- DM1 General Development requirements

Unitary Development Plan (UDP):

G/D/1 Defined Urban Area

G/S/1 Hierarchy and Role of Centres

S/4/A Secondary and Central Shopping Areas – Middleton Long Street

Supplementary Planning Documents (SPD):

Supplementary Planning Guidance note 'Guidelines and Standards for Residential Development' (June 2016).

RELEVANT SITE HISTORY

20/00786/FUL Change of use of ground floor from bank (A2) to amusement arcade (adult gaming centre) (Sui Generis) – Refused
28/08/2020

Reason(s):

1. The proposed use of the premises as an adult gaming centre (sui generis), by virtue of the move away from either a service operation or a retail outlet, would not support the continued vitality or viability of this recognised secondary shopping frontage where local plan policies seek to restrict the introduction of non-retail outlets. Such a use would therefore be clearly harmful to the retail provision within the Secondary Shopping Area of Middleton, contrary to saved policy S/4 of the Rochdale Unitary Development Plan, policy E1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

CONSULTATION RESPONSES

Environmental Health (Noise): No response received

REPRESENTATIONS

Letters of notification were sent to all surrounding properties, a notice was posted in the vicinity of the site and an advert was issued in the local press. No responses were received.

ANALYSIS

Preliminary Matters

Under Planning Application 20/00786/FUL, a number of matters have already been established as being acceptable, including the impact of the proposals to surrounding land users, to heritage assets, and to highways. Appeal ref. APP/P4225/W/21/3268541 did not find any reason to disagree with the Council's findings on the above matters and focused on considering the principle of development, which subsequent to the appeal decision is acceptable.

This application seeks to vary the approved opening hours of the adult gaming centre from 0900 to 2100 Monday to Sunday, to 0800 to 2300 Sunday to Thursday and Bank Holidays. No separate provision is sought for Bank Holidays.

There are not considered to be any material impacts to designated or non-designated heritage assets as a result of the proposed amendments to opening hours as the significance of nearby heritage assets is mostly attributed to their age, architecture or association with notable local architect Edgar Wood, as opposed to their diurnal patterns of use.

Similarly, in respect of highways, given that the extended hours sought fall outside what is considered to be 'peak' hours of intensity for use of the Town Centre, the impacts are considered to be negligible. The assessment is therefore restricted to an assessment of the impact on surrounding land users, including residential occupiers.

Noise and Amenity

Paragraph 185(a) of the NPPF requires new development to be appropriate for its location, taking into account the likely effects on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development; mitigating and reducing to a minimum potential adverse impacts resulting from noise from new development and preventing noise giving rise to significant adverse impacts on health and the quality of life.

The provisions of the NPPF largely accord with Policy G9 of the adopted Core Strategy, which seeks to reduce the impact of all forms of pollution in the borough by (*inter alia*) requiring new development to not lead to unacceptable increases in noise pollution and seek to control pollution from new development through the use of planning conditions or obligations.

The application seeks to extend the opening hours of the approved use by 1hr in the morning across all days, and 2hrs (Sunday to Thursday) and 3hrs (Friday and Saturday) in the evening.

Middleton Gardens includes a wide range of uses which typically include a variety of retail and service units, a collection of market stalls, public houses and fast food outlets which would be expected of a town centre area. Notably, Tesco Extra and the associated car park abuts Middleton Gardens to the east and provides town centre users with medium-stay car parking. The area is well used throughout the week.

A number of units are already open through the early hours of the day; McDonald's is open from 0530, Amigo's Coffee Bar and The Middleton Café from 0800. Tesco Extra and its car park are also open from 0500 daily. It has also been observed on site that market traders typically set up from 0730.

A number of uses also operate well into the evening including the aforementioned Tesco Extra (0100 Monday – Sunday), as well as a number of nearby public houses which fall within the same terrace as the application property; the Edgar Wood (2300 Sunday-Thursday, 0000 Friday and Saturday) The Roebuck (2300 Sunday-Thursday, 0000 Friday and Saturday) and the Britannia Inn (0000 Sunday-Thursday, 0200 Friday and Saturday). The area also has good public transport links from the nearby bus station which operate after midnight.

The use of the Adult Gaming Centre is licensed by the Council's Licensing service under the Gambling Act 2005, and prohibits the sale or consumption of alcohol on site. Whilst the use is considered complementary to nearby night-time economy uses including use of the public houses, patrons would not be able to continue to become inebriated on site. Usage data supplied by the applicant shows that the use of the adult gaming centre is relatively steady through all hours, and does not demonstrate

any significant peaks or troughs in activity, although does taper towards the later hours. The extant permission for the use of the premises as an adult gaming centre restricts the use of amplified sound which is audible at the entrance.

The upper floors of the property are in use as a religious venue, although upper floors in other adjacent units are in use as residential accommodation.

Taking into account the amended opening hours overlapping with a significant number of other uses which typically give rise to greater levels of disturbance than the proposed use, and the levels of activity which are already present into the earlier and later hours, it is not considered that the revised opening hours would give rise to any unacceptable impacts to surrounding land users, including residential occupiers. As such, the proposals would comply with Policy G9 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

RECOMMENDATION

GRANT subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan (received by the Local Planning Authority on 07/07/2020);
 - RE/MID/20/01 – Adult Gaming Centre – Proposed Plan, Dated June 2020; and,
 - RE/MID/20/02 – Virgin Bank – Existing Plan, Dated June 2020.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the adopted Rochdale Core Strategy, the saved Rochdale Unitary Development Plan and the National Planning Policy Framework.

- 2) The use hereby permitted shall not be carried out outside the following times: 0800 to 2300 hours Sundays to Thursdays and 0800 to 0000 Fridays and Saturdays.

Reason: To prevent the proliferation of noise into unsociable hours in the interest of residential amenity and in accordance with Policies DM1 and G9 of the adopted Core Strategy and the National Planning Policy Framework.

- 3) No amplified sound or other music (including from gaming machines, public address systems, loudspeakers etc) which is audible at the site boundary shall be played in the premises at any time.

Reason: In the interest of residential and general amenity of the surrounding area and in accordance with Policies DM1 and G9 of the adopted Core Strategy and the National Planning Policy Framework.

- 4) The premises shall be used for the playing of amusement with prize machines, ancillary retail sales and ancillary food and drink sales only. No games of a sessional nature shall be played nor shall shooting galleries be installed on the premises.

Reason: To control the use of the premises and in accordance with Policy DM1 of the adopted Core Strategy and the National Planning Policy Framework.

Procedure Statement

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively to issue the decision without delay.

Notes for Applicant:

Report Author Ryan Killeen