APPLICATION NUMBER: 21/00245/FUL

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
21/00245/FUL	Ryan Killeen	15 July 2021

Address: 39-41 Middleton Gardens, Middleton M24 1AB

Proposal: Change of use from amusement centre (Sui Generis) to retail (Class E)

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/A

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: KN DATE: 15th July 2021

SITE

This application relates to a ground floor unit of a two-storey mid terrace building 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 site falls within the southern limb of the Middleton Town Centre Conservation Area and adjoins to the Grade II listed 33-37 Middleton Gardens, an attractive example of early art-deco architecture by prominent local architects Edgar Wood and James Henry Sellars which includes a decorative white glazed ceramic tile façade in a herringbone arrangement, with a green chevron detailing and a flat concrete roof.

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 landscape 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

This application seeks permission for a change of use from an Adult Gaming Centre to Retail (Use Class E). No operational development is proposed to facilitate the conversion.

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF) – February 2019
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

99/D36983 Change Of Use From Retail And Amusement Centre To Amusement Centre And Erection Of Single Storey Rear Extension And Installation Of New Shop Front – Granted STC

CONSULTATION RESPONSES

Highways And Engineering
No comments received to date

Env Health - Noise/Odours
No comments received to date

Conservation And Design
No comments received to date

REPRESENTATIONS

Letters of notification were sent to all surrounding properties, a notice posted in the vicinity of the site and an advert issued in the local press.

ANALYSIS

Principle of Development

The application site is located within Middleton Town Centre as defined under saved UDP policy G/S/1. Paragraph 85 of the NPPF states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Core Strategy policy E1 states that the Council will focus retail, leisure, cultural, office, residential and other development to promote the viability and vitality of all the borough's town centres to maintain them as thriving and sustainable centres and the preferred shopping and leisure destinations for people living, working and visiting the borough, further stating that the council will seek to protect and safeguard the core retail function of Primary Shopping Areas through restricting certain non-A1 retail and retail uses within Primary and Secondary Shopping Frontages, although it is

recognised that some non-retail uses would complement the shopping role of the Town Centre.

The application site is also designated as a secondary shopping area under saved UDP policy S/4. These areas are predominantly in town centres with the highest concentrations of retail use. These areas are considered to be the prime retail location of the town, where only development of, or change of use to, shops, food and drink outlets and financial and professional services will be permitted.

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ("the UCO Amendment Regulations"), amending the Town and Country Planning (Use Classes) Order 1987 ("the UCO"), came into force on 1 September 2020. This introduced a new Commercial, Business and Service Use Class E which, as the Explanatory Memorandum to the UCO Amendment Regulations notes, is intended to better reflect the diversity of uses found on high streets and in town centres, to provide flexibility for businesses to adapt and diversify to meet changing demands, and to support the viability of these areas now and in the future.

The site benefits from an authorised use as an 'Adult Gaming Centre'. Such use, although not formally set out within the definition of 'Main town centre uses' provided within annex 2 of the NPPF, has been recognised within a recent appeal (ref. APP/P4225/W/21/3268541) to form part of a suitable mix of uses which would be complementary to the Town Centre's retail role and as such would not undermine its vitality or viability, as the use would generate a respectable footfall and is associated with linked trips to other amenities within the centre.

The application seeks permission for a change of use to retail which would accord with the provisions of Policy E1 of the Core Strategy and saved policies G/S/1 and S/4 of the UDP through the net gain, and therefore increased concentration of, retail units in the town centre.

Whilst a change exclusively to a retail use would be seen to enhance the vitality and viability of the centre, the effect of the UCO Amendment Regulations is that retail use now falls within Class E, and a change to another Class E use would not be an act of development requiring planning permission, with unrestricted Class E use allowing for use of the application site for a variety of other uses such as medical and health services, nursey, offices and industrial processes; uses which arguably would be associated with a lesser footfall and fewer linked trips and which may consequently be more harmful to the vitality and viability of the town centre.

Given the site is within a secondary shopping area, it is recommended that a condition be attached to any permission which would restrict the use of the site within Class E to those uses which are considered to secure neutral or positive impact to the vitality and viability of the town centre, in accordance with Core Strategy Policy E1. Subject to the recommended condition, the application would accord with the provisions of the adopted Core Strategy and the National Planning Policy Framework.

<u>Other Considerations</u>

Impact to heritage assets

The application site lies within the boundary of the Middleton Town Centre Conservation Area and adjoins to no.33-37 Middleton Gardens, an attractive building with a glazed ceramic tile façade designed by prominent local architects Edgar Wood and James Henry Sellars. Regard has been had to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in addition to paragraph 193 of the NPPF, which ultimately seeks to attach great weight to a designated heritage asset's conservation as the application. The application does not propose any works which amount to operational development that would alter the appearance of the site, and as such, the impact on the Middleton Town Centre Conservation Area and the adjoining Grade II listed building would be neutral.

Impact to surrounding land users

It is acknowledged that there are residential properties within close proximity to the site. Is it considered that any the level of noise and disturbance generated by any use granted would not be discernible above the levels of hustle and bustle synonymous with the existing town centre activities. Therefore, it is not expected that the proposal would adversely impact the amenity of surrounding occupiers by way of noise and disturbance.

Highways

The application site is sustainably located within Middleton Town Centre, 70m from the Middleton Bus Station. The intensity of the proposal is such that it would have no noticeable impact on the functioning of the local highway network. The site benefits from a shared, gated courtyard to the rear which would be suitable for any deliveries if necessary.

RECOMMENDATION

GRANT subject to the following conditions:

1 The development must be begun not later than three years beginning with the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2 This permission relates to the following plans:-

- Location Plan
- RE/MID2/21/01 – Existing Ground Floor Plan
- RE/MID2/21/02 – Proposed Ground Floor Plan

and the development shall be carried out in complete accordance with these drawings hereby approved.

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

3 The development hereby approved shall not be operated outside the hours of 0800-1800 Monday to Friday and 0800-1700 Saturdays, Sundays and Bank Holidays.

Reason: To protect the amenity of nearby occupants and to accord with policies G9 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

4 There shall be no deliveries to the development hereby approved outside of the hours of 0800 to 17:00 Monday to Friday and 09:30 to 15:00 on Saturday, Sunday and Bank Holidays.

Reason: To protect the amenity of nearby occupants and to accord with policies G9 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

5 Notwithstanding the provisions of the Town and Country Planning (Use classes) Order 1987, (as amended), and the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) or any equivalent Order following the revocation and re-enactment thereof, the building hereby approved shall only be used for the purpose of uses described within Class E(a) – E(c) inclusive and no other purpose including other uses within Use Class E.

Reason: In the interests of amenity and highway safety and in accordance with policies DM1 and T2 of the adopted Rochdale 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