Planning Inspectorate

Appeal Decision

Site visit made on 25 March 2025

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 April 2025

Appeal Ref: APP/B4215/W/24/3355125
537 Stockport Road, Manchester M12 4JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for [outline] planning permission.
- The appeal is made by Merkur Slots Limited (UK) against Manchester City Council.
- The application Ref is 140955/FO/2024.
- The development proposed is a change of use from a vacant Class E unit (former bank) to an Adult Gaming Centre (AGS) (Sui Generis).

Decision

1. The appeal is dismissed and planning permission for a change of use from a vacant Class E unit (former bank) to an Adult Gaming Centre (AGS) (Sui Generis) is refused.

Procedural Matter

2. The revised National Planning Policy Framework was published in December 2024 but does not raise any new matters which affect the assessment of this appeal scheme.

Main Issues

3. It is considered that the main issues are the effects of the proposed development on (a) the vitality and viability of the Longsight District Centre and (b) the living conditions of the occupiers of nearby residential properties, particularly by reason of noise.

Reasons

Vitality and Viability

4. The appeal property is a 2-storey building that is currently vacant but was previously occupied by a bank until November 2023. The property is situated within the Longsight District Centre and occupies a corner location where there is a pedestrian route serving the Asda supermarket joining Stockport Road. The property is a unit within a terrace of 9 units including 2 betting offices, a pawnbroker, Greggs and other shops.

5. The proposed development includes a change of use of the property to an adult gaming centre (AGC). Although the council acknowledge the property is currently vacant, it is claimed that the property could still be occupied by a retail use at a

later date. However, there is no clear evidence provided by the council that, if it remained vacant, a retail shop would occupy the property. Further, Class E of the Town and Country Uses Classes Order 1987 (as amended) does provide wide flexibility concerning the re-use of former banks and, as such, this does not mean a retail shop would occupy the property. Indeed, other non-retail uses falling within Class E could equally occupy the property. Therefore, limited weight is given to the council's claim about a potential retail use occupying the property if this appeal failed.

6. With the notable exception of Asda and an outdoor market, the District Centre generally extends in a linear form along either side of Stockport Road. Policy C2 of Manchester's Core Strategy (CS) refers to supporting thriving district centres and providing a good range of accessible key services, including retail, health facilities, public services, leisure activities and financial and legal services.

7. However, CS Policy C2 does not explicitly reference any limitations on the quantum or proportion of a use occupying a particular number of buildings within district centres. The *Hot Food Takeaway Supplementary Planning Document* is specific to these uses and not AGCs. Instead, CS Policy C2 refers to proposals contributing positively to the diversity and mix of uses within centres without undermining their primary retail function. Although retail should remain the primary function, CS Policy C2 also recognises that provision can be made in district centres for commercial and service uses, leisure and community facilities and other uses which make a positive contribution to the vitality and viability of the centres.

8. From what was observed, except for the property, the buildings at ground floor level within the District Centre are occupied by varying uses, including shops, betting offices, take-aways, restaurants, financial services, estate agents, hairdressers and council offices/library. Above the ground floor commercial uses there appears to be a mix of offices, storage and residential uses. No AGC were observed.

9. The appellant claims that the appeal scheme would re-use a vacant building and this would add to the vitality and viability of the District Centre. To support this claim, surveys about the overall number of visitors to other AGCs have been provided. Although these surveys relate to other AGCs, they are useful to indicate the overall level of activity associated with a typical AGC and are given moderate weight in the assessment of the appeal scheme's impact on the vitality and viability of the District Centre. However, the appeal decisions referred to by both the council and the appellant are only given limited weight in the determination of this appeal because their detailed planning circumstances have not been provided.

10. By reason of the current vitality and viability of the District Centre observed during the site visit, the lack of vacant commercial units and the use proposed being one that is found in local/district centres in other locations, in principle the re-use of the property as an AGC would not conflict with CS Policy C2 by reason of unacceptably harming the role, function vitality and viability of this District Centre. A good range of retail and other uses would remain within this District Centre and the proposed development would not result in, for example, 2 sui generis uses being sited adjacent to one another. In reaching this judgement, account has been taken that the property is vacant and the appeal scheme would bring the property, which was previously occupied by a bank rather than a shop, back into active use. The hours of opening sought by the appellant could support the evening economy in the District Centre alongside other businesses which might be open.

11. Walking along Stockport Road it was evident that there is a wide variation in window displays with some precluding the overlooking of footways. The near-by betting offices each possess video displays and vinyl stickers attached to the glazing. Elsewhere within the District Centre other windows are obscured with advertisements and signs of varying sizes and materials, including vinyl stickers.

12. The council has raised concerns that the proposed window displays would not create an active frontage, particularly on a corner plot. The appellant has identified that the windows would include video displays, advertisements and a vinyl strip albeit to the rear of the display windows there would be internal partitions. The type of window displays proposed would result in frontages which would not be as active as some other commercial premises within the District Centre.

13. However, there would also be activity associated with customers entering and exiting the proposed AGC as indicated by the appellant's visitor surveys. People would continue to walk along the footway. Customers for the supermarket, or people wishing to access the associated car park, would continue to walk along the pedestrian route thereby further contributing to activity in this locality. In combination, the proposed window displays and potential customer activity associated with the appeal scheme would not significantly harm the overall character of the commercial uses within the District Centre and would maintain an active frontage in this location. Even if the property was occupied by another use falling within Class E, there is no certainty there would be window displays that would create a more active frontage than what is proposed.

14. For the reasons given, it is concluded that the proposed development would not cause unacceptable harm to the vitality and viability of the Longsight District Centre and, as such, it would not conflict with CS Policies C2 and DM1. CS Policy DM1 refers to developments having regard to the character of the surrounding area. The council refer to CS Spatial Objectives SO1 and SO2 and CS Policy SP1 which are not development management style policies and neither are CS Policies SP1 and EN1.

Living Conditions

15. Although the council has suggested a condition restricting the opening hours, the appellant is seeking planning permission which would enable the proposed AGC to open for 24 hours per day. The implications for the living conditions of neighbouring occupiers have been assessed on this basis, specifically customers accessing the proposed AGC overnight.

16. The appellant has provided a Noise Assessment which considers the context of the surrounding area, noise emissions associated with other AGCs and the anticipated number of customers overnight by using survey information from AGCs. Although such survey information is not specific to the appeal property, it is a useful indication of the potential level of activity with up-to 14 comings and goings during an hour. However, the overall number of customers likely to visit the appeal scheme based upon experiences at other AGCs during the night-time period is not provided. Accordingly, there is no clear indication of the potential total level of activity associated with the appeal scheme during this period.

17. How customers visit other AGCs overnight is not part of the Noise Assessment but reference is made to most visits being on foot. The council has raised concerns about on-street parking occurring on local residential roads. However, there is a

large car park close to the property and there are on-street spaces along Stockport Road adjacent to the property available during the night-time period. The likelihood of customers parking their vehicles on near-by residential roads would be low.

18. The Noise Assessment refers to the nearest residential property being located 36 metres away from the property whereas other information provided by the appellant identifies a separation distance of only 15 metres. The council only reference residential use at first floor level fronting the opposite side of Stockport Road. It was not possible during the site visit to specifically identify what residential unit is located within 15 metres of the property.

19. Although no specific details have been provided, its is reasonable for the appellant to refer to their being late night opening of some of the commercial uses within the District Centre, including hot food takeaways and restaurants. The council claims that there are no businesses within the District Centre which open for 24-hours and the appellant has not provided any contrary evidence.

20. During the daytime site visit, it was observed that Stockport Road is a busy arterial route leading from Manchester city centre to Stockport. It is also reasonable to assume that traffic flows would be lower at night-time and the background noise level would be lower.

21. However, the Noise Assessment does not provide any indication of the existing background noise level, including from traffic, near-by businesses (at least until they close) and other night-time activity. Instead, based upon surveys of activity at other AGCs, the Noise Report seeks to forecast what the level of noise associated with the proposed development could be at a residential property located 36 metres away (rather than the 15 metres referred to elsewhere in the appellant's evidence). There is no specific context within which the forecast levels of noise from the proposed AGC can be assessed, including background noise environment.

22. Overall, the Noise Assessment does not sufficiently demonstrate that the appeal scheme's noise levels would not adversely affect the living condition of the occupiers of the near-by residential property, whether 15 or 36 metres away. While the occurrence of louder noise risks each night may be low based upon the Noise Assessment, without a clear understanding of the background noise environment it would still only take intermittent occasions to cause disturbance, particularly in circumstances where there are currently no other commercial uses claimed to be open for 24-hours, and there is an absence of any evidence about the overall likely number of visitors which could visit the property at night-time.

23. Accordingly, in the absence of the necessary evidence, it is concluded that the proposed development would cause unacceptable harm to the living conditions of near-by residential properties, particularly by reason of noise, and, as such, it would be contrary to CS Policy DM1 and Policy DC26 of the Unitary Development Plan for the City of Manchester. Amongst other matters these policies refer to consideration being given to the effects on amenity, including noise, and where a new proposal might generate potentially unacceptable levels of noise an assessment of the likely impact and proposed mitigation measures should be provided.

Other Matters

24. Local residents have identified a number of other matters as reasons why this appeal should fail, including a fear of antisocial behaviour occurring and the promotion of gambling activity, including amongst vulnerable adults and children. However, these other matters do not alter the main issues which have been identified as the basis for the assessment of this appeal.

Conclusion

25. Although the proposed development would not cause unacceptable harm to the vitality and viability of the Longsight District Centre, this matter is demonstrably outweighed by the unacceptable harm which would be caused to the living conditions of the occupiers of near-by residential properties, particularly by reason of noise. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR