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# Appeal Decision

Site visit made on 31 August 2022

**by K L Robbie BA (Hons) DipTP MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21<sup>st</sup> October 2022**

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**Appeal Ref: APP/X5990/W/22/3297432**

**32 Gerrard Street, London W1D 6JA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Silvertime Amusements Ltd against the decision of the City of Westminster Council.
  - The application Ref 21/04145/FULL, dated 22 June 2021, was approved on 26 January 2022 and planning permission was granted subject to conditions.
  - The development permitted is Use of basement and ground floors as Adult Gaming Centre (Sui Generis).
  - The condition in dispute is No. 2 which states that: *Customers shall not be permitted within the adult gaming centre premises before 08.00 or after 00.00 (midnight) each day.*
  - The reason given for the condition is: *To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021).*
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## Decision

1. The appeal is allowed and planning permission Ref 21/04145/FULL for Use of basement and ground floors as Adult Gaming Centre (Sui Generis) at 32 Gerrard Street, London W1D 6JA on 26 January 2022 by the City of Westminster Council is varied by deleting condition No. 2 and substituting it with the following condition:

Condition No. 2:

*Customers shall not be permitted within the adult gaming centre premises before 0800 or after 0300 each day.*

## Procedural Matters

2. The appeal is made directly against a condition imposed on a planning permission. The description of the development on the Council's formal decision notice is usefully more concise than that originally specified by the appellant and appears to be an accurate reflection of what is proposed. I have therefore used the description adopted by the Council in both the banner heading and the decision above and have determined the appeal accordingly.

## Background and Main Issue

3. The opening hours originally proposed by the application were for 24-hour opening, seven days a week, but planning permission was granted for the use of the appeal premises between the hours of 0800 to 0000 (midnight) each day. The appellant now wishes to extend the opening hours from those originally imposed to between 0800 and 0300 hours every day of the week.

4. The main issue is therefore the effect that varying the opening hours would have on the living conditions of neighbouring residents with particular regard to noise and disturbance.

## **Reasons**

5. Gerrard Street and those surrounding it in the Chinatown area of the West End of central London are vibrant, busy and heavily influenced by the evening and night-time economy. The street was at the time of my visit<sup>1</sup> generally bustling with pedestrians and was noisy from people using seating outside restaurants and bars. From the submitted evidence and my own observations there is clearly an active evening and night-time economy in the area comprising, bars, restaurants, hot food takeaways and other entertainment venues and activities which last late into the night.
6. The Council refers to residential properties being close to the appeal premises and has indicated locations within the street which their records show to be in residential use. Their concern is that the use of the premises beyond midnight would result in undue noise and disturbance for those residents. I have been provided with a map showing the locations of noise complaints from a number of years ago. However, it is not clear what these related to and there is no evidence before me that adult gaming centres were the source of any complaints either on Gerrard Street specifically or in other locations within the City of Westminster.
7. Given the commercial nature of the area and the uses accommodated within it, it would not be unreasonable to expect that there would be a certain level of noise and possible disturbance into the early hours of the morning on a regular basis. Furthermore, there are a number of other betting shops and adult gaming centres in the street and those surrounding it, notably one on the corner of Gerrard Street and Wardour Street which I am advised opens 24-hours a day. A number of the restaurants on the street advertise opening hours beyond midnight.
8. In this regard, I have noted that a condition on the permission restricts numbers of people who can be on the premises and imposes controls on the management of the premises. To my mind, these measures provide the necessary mitigation to ensure that reasonable living conditions would be maintained for the occupiers of nearby residential properties paying regard to the tests at Paragraph 56 of the National Planning Policy Framework (the Framework). I am, therefore, not persuaded that the proposed opening hours would result in increased noise and disturbance which would adversely impact the living conditions of residents living close to the appeal premises.
9. In conclusion, the proposal would not have any unduly adverse impacts on the living conditions of nearby residents in respect of noise and disturbance as a result of the extended operating hours of the premises. Consequently, there are no conflicts with the City of Westminster City Plan 2019 – 2040 Policies 7, 16 and 33 in relation to impacts on amenity specifically noise and disturbance. The proposal would also not conflict with the aims of London Plan Policy D14 which seeks to protect residents from the impacts of noise-generating activities, nor would it conflict with the aims of the Framework in its approach to living conditions.

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<sup>1</sup> 1530 and 2200 hours on 31 August 2022

## **Other Matters**

10. The site is within the Chinatown Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on the decision maker to have regard to the desirability of the preserving or enhancing the character or appearance of the CA. The CA is characterised by its historical development and resulting street pattern and the mix of commercial uses found within the area which gives it a vibrant and edgy feel.
11. The limited scale of the amended operating hours proposed would preserve the character and appearance of the CA and would not result in harm to its significance as a designated heritage asset.

## **Conclusion**

12. For the reasons given above, I conclude that the appeal should succeed. I shall vary the planning permission by deleting the disputed condition and substituting it for an amended condition No. 2 as indicated in my decision. The existing planning permission is therefore modified accordingly and should be read in conjunction with it.

*KL Robbie*

INSPECTOR