



Appeal Decision

Site visit made on 11 July 2023

by Beverley Wilders BA (Hons) PgDURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd August 2023

Appeal Ref: APP/B4215/W/23/3316418

67 Deansgate, Manchester M3 2BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Merkur Slots Ltd (UK) against the decision of Manchester City Council.
 - The application Ref 134971/FO/2022, dated 16 September 2022, was refused by notice dated 16 December 2022.
 - The development proposed is described as "the change of use from a former café (Class E) (former A3) to an Adult Gaming Centre (AGC) (Sui Generis) (SG)".
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a former café (Class E) (former A3) to an Adult Gaming Centre (AGC) (Sui Generis) (SG) at 67 Deansgate, Manchester M3 2BW in accordance with the terms of the application, Ref 134971/FO/2022, dated 16 September 2022, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The description of development used in the heading above has been taken from the planning application form. However, it has been altered slightly to remove wording that is not a description of development and also to remove reference to an application for advertisement consent that does not form part of this appeal.

Main Issue

3. The main issue is the effect of the proposal on the character, vitality and viability of Deansgate.

Reasons

4. The appeal site comprises a vacant ground floor property located on Deansgate, a large and prominent road within Manchester city centre containing a number of national operators. Surrounding uses comprise a mixture of retail, food, drink and services such as hairdressers. At the time of my visit there were a number of vacant units along this particular stretch of Deansgate and the Council accepts that the vacant status of the property has a negative impact on the road.
5. It appears from the evidence that the property was previously in use as a café and that despite being marketed, it has been vacant since March 2020. One of the adjoining units is also currently vacant as are a number of other nearby units including a large unit at 39 Deansgate. A survey submitted by the

appellant carried out in January 2023 showed that there were 10 vacant units situated along Deansgate (Nos 41 to 79-81 and 48 to 92/96) and this evidence has not been disputed by the Council.

6. The proposal is to use the property as an adult gaming centre (AGC), to be operated 24 hours a day, 7 days a week. Whilst the proposed use is not a retail use and is considered by the Council to be a non-traditional retail function, it would nevertheless bring back into use a property that has now been vacant for more than 3 years.
7. In the evidence, reference has been made to the appeal site being within a Primary Shopping Area and within the Retail Core of the city, though I have seen nothing to indicate that the area is subject to any specific restrictions over and above those contained within the policies referred to in the Council's reason for refusal. These policies provide general support for economic and commercial development as well as leisure activity within the city centre.
8. Policy C 10 of the Core Strategy (CS)¹ relates to leisure and the evening economy and states, amongst other things, that new uses in Manchester centres should support both the day-time and evening/night-time economies whilst not undermining the role of the primary shopping area. CS Policy CC 1 further states that the provision of a range of economic development uses including retail and leisure will be encouraged in the city centre whilst Policy CC 10 states that the city centre will develop as a location which appeals to a wide range of residents and visitors, including uses which increase the diversity of activity in the city centre, with an emphasis on family-oriented activity.
9. From my observations on site and having regard to the evidence before me, there is no current provision of an AGC on Deansgate and there is limited provision of such uses within the wider city centre. Whilst not a family-oriented activity, the proposal would nevertheless bring the property back into use and would increase the diversity of uses on Deansgate and in the wider city centre. Deansgate currently contains a good mix of uses and at the time of my visit (10:30) pedestrian footfall near to the appeal site was high. The proposal would not lead to a concentration of similar uses and whilst not a traditional retail use, it would nevertheless attract customers and footfall and contribute to the vitality and viability of this part of the city centre. It would not therefore undermine the function and character of Deansgate or the role of the Primary Shopping Area.
10. The submitted application related to the change of use of the property only and did not include any external alterations, with proposed advertisements being the subject of a separate application (advertisement consent has recently been granted by the Council for new signage to the front of the premises (Ref 134972/AO/2022 approved 11 November 2022). However, during the course of the application, and in response to Council concerns regarding the alleged 'dead frontage' and limited visual interest that would be presented to Deansgate and Barton Square to the rear, an additional plan was submitted showing proposed front and rear elevations.
11. The plan shows that it is the appellant's intention to erect TV screens and vinyl displays internally to partly obscure the existing shopfront and rear windows.

¹ Manchester's Local Development Framework Core Strategy Development Plan Document Adopted 11th July 2012

Whilst this would reduce visibility into the property, intervisibility would nevertheless remain between the property and Deansgate and it would not be dissimilar to displays found within a number of other nearby units including the one at the William Hill betting shop at 43 Deansgate. The proposal would not result in a 'dead frontage' but rather the shopfront would remain active and of visual interest as the internal display would not cover all of the existing glazed area. Though there would not be intervisibility and natural surveillance with Barton Square at the rear, at this point, the character of Barton Square is very much that of a service yard area with numerous blank frontages and bin storage areas. Therefore, the appearance of the AGC would not be at odds with surrounding development or the character of the area.

12. For the reasons stated above, the proposal would not have an adverse effect on the character, vitality and viability of Deansgate. It therefore accords with policies SO1, SO2, SP 1, C 1, C 10, CC 1, CC 10 and DM 1 of the CS. These policies, amongst other things, support appropriate economic and commercial development including leisure uses in the city centre, subject to having regard to general development management issues. Although Policy EN1 was referred to in the Council's reason for refusal, this does not appear relevant to the proposal for a change of use with no external alterations as it relates to urban design principles and good design.

Other Matters

13. The appeal property, which is considered by the Council to be a non-designated heritage asset, is located within the St Ann's Conservation Area, near to the Parsonage Road Conservation Area and near to a number of listed buildings including the Grade II* Listed Barton Arcade. However, as the proposal relates to a change of use with no external alterations proposed, it would preserve the significance of the Conservation Areas, the setting and significance of nearby listed buildings and it would not be harmful to the host building. Whilst some changes are proposed internally to the front and rear elevations, as stated above, some intervisibility with Deansgate would remain and the appearance of the building and the CA would be largely unchanged following the proposal.
14. In reaching my decision, I note that an objection to the proposed use was received from a nearby business operator who is concerned that it could affect the existing character of Deansgate and attract other businesses such as fast-food outlets. However, as set out above, I am satisfied that the proposal would not be harmful to Deansgate and there is no evidence to suggest that it would attract other businesses to the area that may be harmful to it.

Conditions

15. The Council has provided a list of suggested conditions and I have had regard to these. I have imposed a condition specifying the approved plans as this provides certainty. Within this I have included reference to the Manifestations Plan showing the proposed front and rear elevations as this was before the Council when it made its decision. I have also imposed a condition requiring various measures to be implemented in order to contribute to crime prevention. I have not imposed the Council's suggested conditions regarding noise, hours restrictions, cycle parking, disabled access or roller shutters as I do not consider that these conditions are necessary.

16. A noise report was submitted with the application making a number of recommendations and stating that the nearest residential occupier is 80 metres away. Given this, and as suggested by the appellant I have imposed a condition requiring the approved development to be carried out in compliance with the recommendations within the noise report. This is necessary to ensure that noise from the proposed use is controlled so as to ensure no adverse effect on the area.
17. As stated, the proposal is for a 24 hour, 7 days a week operation. Having regard to the appeal site location on a busy road within the city centre, away from residential properties and to the fact that no objections were raised to the proposal by the Council's environmental health department, an hours restriction condition is not necessary. Given the proposed hours of opening, a condition relating to the provision of roller shutters is unnecessary as their provision seems unlikely.
18. The appeal site is located in a highly accessible location with good access to cycle parking facilities. Given this and the fact that there is no outside space associated with the appeal property, I do not consider it necessary or practical to require on-site cycle parking facilities.
19. Similarly, a condition requiring disabled access facilities to be provided throughout the building is not necessary and has not been justified given the previous commercial use of the premises, the fact that level access is provided for staff and customers on the ground floor and given that none of the policies that I have been provided with copies of, require that to be the case.

Conclusion

20. For the reasons given above, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 1:1250, 852-PL-10 Rev 03 and 852-PL-17.
- 3) Prior to the first use of the development hereby approved, the recommendations outlined in the Noise Assessment Report (Archo Consulting reference PR2001_118_FINAL dated 13/09/2022) shall be implemented and retained as such thereafter.
- 4) Prior to the first use of the development hereby approved, the following measures shall be fully implemented:
 - a) The staff/safe room to the side of the counter shall be accessible to members of staff to escape into, in case of an emergency. This room shall have solid masonry walls/reinforced walls and a secure ceiling (e.g., layer of securely anchored welded wire mesh).
 - b) The doors providing access from the counter area to the back of house shall be certified to BS PAS24 or LPS 1175 SR2 (or equivalent).
 - c) A security certified safe providing adequate capacity and overnight cover shall be secured within the staff/safe room. The correct size and category of safe required shall be determined by an assessment of prospective takings and to meet insurance needs. The safe shall be time delayed to no less than 5 minutes; appropriate signage shall be displayed as a deterrent in order to make potential offenders aware of the time delay.
 - d) Any staff areas that are to be included within the property shall be access controlled and restricted to members of staff only.
 - e) Dusk till dawn lighting shall be installed to all external doors.
 - f) Personal attack alarms shall be provided at all till positions and within the staff/safe room, once pressed the alarm must activate a loud alarm at the scene.

End.