



Appeal Decision

Site visit made on 4 December 2024

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2024

Appeal Ref: APP/G2625/W/24/3343179

20A-22 St Stephens Street, Norfolk, Norwich, NR1 3SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Luxury Leisure against the decision of Norwich City Council.
 - The application Ref is 23/01036/VC.
 - The application sought planning permission for change of use to an adult gaming centre (Class Sui Generis) on the ground floor and tanning salon (Class Sui Generis) on the first floor without complying with a condition attached to planning permission Ref 17/01034/U, dated 23 August 2017.
 - The condition in dispute is No. 3 which states that:
The premises which form the subject of this permission shall not be open to the public, trading, or have members of the public, as customers or guests, on the premises between the hours of midnight and 7am on any day.
 - The reason given for the condition is:
To safeguard the users of the facility from threat of crime, and to protect the amenity of the surrounding area, in accordance with the Crime and Disorder Act 1990, policy DM2, DM11 and DM23 of the Development Management Policies Local Plan 2014.
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Decision

1. The appeal is allowed and planning permission is granted for change of use to an adult gaming centre (Class Sui Generis) on the ground floor and tanning salon (Class Sui Generis) on the first floor at 20A-22 St Stephens Street, Norfolk NR1 3SA, in accordance with the application Ref 23/01036/VC, without compliance with condition numbers 1, 3 and 4 previously imposed on planning permission Ref 17/01034/U dated 23 August 2017, and subject to the following conditions:
 - 1) The development hereby approved shall be carried out in accordance with the application forms, plans, drawings and details as specified below:
Planning Statement received 24 August 2023
Drawing no. 1360 (0)03 P1 - Proposed plans and elevations;
Drawing no. 1360 (0)01 P2 - Existing plans and elevations;
Location Plan and Block Plan, all received 26 June 2017.
 - 2) The premises which form the subject of this permission shall not be open to the public, trading, or have members of the public, as customers or guests, on the premises between the hours of 2am and 7am on any day.

Preliminary Matters

2. Permission was granted in 2017 for an adult gaming centre and tanning salon at the appeal site (ref 17/01034/U). Condition no. 3 of the 2017 permission restricts opening hours to between 7am and midnight on any day. The appellant is now seeking to vary the condition to allow the adult gaming centre, which trades under the Admiral brand, to open until 2am every day.

Main Issue

3. The main issue is the effect of varying the condition on i) the living conditions of nearby residents, and ii) the potential threat of crime.

Reasons

4. Policy DM23 of the Development Management Policies Local Plan 2104 is concerned with supporting and managing the evening and late-night economy. The policy aims to enhance the vibrancy of the city centre whilst safeguarding the amenity of nearby occupiers, and minimising the potential for crime and disorder.
5. Local Plan Policy DM23 allows for evening, leisure and late night uses within defined areas, where opening beyond midnight may be acceptable. As the appeal site is outside of the Late Night Activity Zone, the proposed late night opening would only be acceptable if it would not give rise to unacceptable amenity and environmental impacts.
6. Paragraph 23.13 of the supporting text to Policy DM23 explains that proposals to extend opening hours will be dealt with on a case-by-case basis, taking account of the nature of the use; the proximity of residential uses; the likely impacts on amenity (including noise); crime and disorder, and the adequacy of management policies to ensure the safety and security of customers and staff.
7. The Council's approach is informed by standing police advice, which says that premises outside the Late Night Activity Zone should not be permitted to open past midnight, unless it can be clearly demonstrated that there would be no detrimental impact on the living conditions of nearby residents, or that there is no potential threat of crime and disorder to the public.

Living conditions

8. St Stephens Street is a main city centre street and bus route, lined with retail and other commercial uses. There are also residential uses nearby, notably a large student accommodation development on the other side of the road from the appeal site. Evening entertainment uses are not prevalent in the immediate vicinity, and the Admiral adult gaming centre is one of the few units along this stretch of St Stephen Street which opens late into the evening.
9. The existing use, which has been operating for a number of years, already opens until midnight each day; considerably later than other commercial premises in the surrounding area. There are sensitive uses nearby, but there is no evidence to suggest that there have been any problems or complaints in connection with noise or anti-social behaviour.
10. If it were to open between midnight and 2am as proposed, the adult gaming centre would be a late night use. That said, the low-key nature of the use differs from bars, nightclubs and sexual entertainment uses, which are

specifically referred to in the text accompanying Policy DM23. The adult gaming centre is unlikely to attract large numbers of customers, indeed a survey of 67 other Admiral premises, conducted by the appellant in 2022, suggests that there were typically less than 10 customers per hour between 8pm and 1am, with lower numbers later at night. A more recent, smaller survey, undertaken by Hepworth Acoustics as part of the appeal, found the numbers to be lower. The appellant's monitoring of the appeal premises and other adult gaming centres suggests that people tend to arrive and leave individually or in pairs, rather than in larger groups, and are not particularly noisy.

11. The appellant has provided information on Luxury Leisure's approach to security and social responsibility at its adult gaming centres around the country, many of which operate 24 hours, 7 days a week. The letter provided explains that alcohol is not served or consumed at any of their premises, and those under the influence of alcohol not permitted entry. Such measures will help to avoid noise associated with people using the premises when inebriated.
12. St Stephens Street is a main road open to buses and taxis, but after midnight, noise from traffic and other sources noise will have reduced. Lower background noise levels could mean that noise associated with the gaming centre may be more noticeable, but the submitted noise survey predicts that for the closest residents, the noise impact from customers arriving at or leaving the premises would be low. I have no reason to doubt this conclusion, which is based on a survey carried out between midnight and 2am at the appeal site, and monitoring information from existing Admiral premises.
13. Similarly, the Acoustic report concludes that the noise impact associated with running mechanical equipment at the premises for a longer period would also be low. Again, I have no reason to dispute this.
14. Given the anticipated number of patrons at night time, any additional traffic generated by the increased opening hours would be small, and not of a level which would adversely affect the living conditions of nearby occupiers.
15. Based on the evidence provided, I am satisfied that the proposed variation of condition would not harm the living conditions of nearby occupiers.

Threat of potential crime

16. The appellant's information explains their approach to safeguarding customers and staff, including through the use of CCTV and other security measures at their sites. Any individuals identified as engaging in crime or anti-social behaviour are banned from all stores immediately. Such management measures will help in avoiding adverse impacts associated with the proposed extended use, and I note that a licence for the premises has been granted which contains no restrictions on opening hours. A letter from Norfolk Police sent to the Council during their consideration of the original 2017 application confirms that they were content that the due safeguards would be in place to protect clients and staff, as well as the business premises.
17. Despite these measures, the potential for crime cannot be eliminated entirely, as criminal activity could take place in areas outside of the appellant's control. As with many urban areas, there are dark areas in the vicinity of the appeal site, where criminal activity could potentially take place, and the Council has

also highlighted a lack of natural surveillance. However, St Stephens Street is a wide and well-lit main road, where some degree of activity and traffic is likely, even late at night. No evidence has been provided to suggest that crime is a particular problem in this area, or that there have been issues associated with the existing use. The police have raised no objection to the proposed increase in opening hours.

18. Additional comfort on this matter is provided in the appellant's letter detailing their approach to security and social responsibility. This notes that dedicated night staff are trained to constantly review the safety of customers and staff, by providing door to door transport as required. Customers leaving the premises late at night could be picked up by taxi directly outside.
19. On the basis of the information provided, I am satisfied that appropriate security and management measures would be in place to minimise any potential threat of crime associated with the extended opening hours.
20. Overall, I conclude that varying the condition would not cause unacceptable harm to the living conditions of nearby residents, and would not increase the potential threat of crime.
21. As it the amenity and environmental impacts would be acceptable, the proposal would not conflict with Local Plan Policy DM23. There is no evidence that the proposal would give rise to noise which would cause unacceptable disturbance to existing occupiers, or adversely impact on their health, well-being and quality of life. The proposal would therefore be consistent with Local Plan Policies DM2 and DM11.

Conditions

22. For the reasons set out above, the proposed change to opening hours at the adult gaming centre is acceptable. I have therefore varied condition 3 of permission 17/01034/U to allow the appeal premises to be open between the hours of 7am and 2am each day (renumbered condition 2). Restricting the use of the premises between 2am and 7am hours remains necessary, to safeguard the living conditions of nearby occupiers and avoid any increased risk of crime.
23. Condition 2 of the 2017 permission, which specifies plans, is still needed to provide certainty (now condition 1). Original condition 1, which sets out timescales for implementation, is no longer needed as the use has already commenced. The shopfront has been installed, so condition 4 is no longer needed either. I have therefore reimposed original condition 2, but omitted nos. 1 and 4.

Conclusion

24. I have found that the proposed variation of condition 3 to extend the opening hours of the appeal premises to 2am each day is acceptable. The appeal is therefore allowed.

R Morgan

INSPECTOR