



Glasgow City Council

Planning Local Review Committee

Report by Executive Director of Neighbourhoods,
Regeneration and Sustainability

Item 1

28th May 2024

Contact: Sam Taylor Ext: 78654

24/00014/LOCAL - Use of betting office (sui generis) as Adult Gaming Centre (sui generis) and external alterations – Section 42 application for non-compliance with condition 3 of planning permission 20/01876/FUL AT 335 Sauchiehall Street

Purpose of Report:

To provide the Committee with a summary of the relevant considerations in the above review.

Recommendations:

That Committee consider the content of this report in coming to their decision.

Ward No(s): 10

Citywide: n/a

Local member(s) advised: Yes ☐ No ☐ consulted: Yes ☐ No ☐

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1 LOCATION AND DEVELOPMENT PLAN DESIGNATIONS

- 1.1 The site consists of a ground floor mid-terrace commercial unit within a 4-storey sandstone tenement block on the south side of Sauchiehall Street. It is currently in use as an adult gaming centre.
- 1.2 It is within Glasgow City Centre edge of centre zone 1 within the Network of Centres, the City Centre Strategic Economic Investment Location and Glasgow Central Conservation Area. It is B listed and in an area of high accessibility by public transport.
- 1.3 The surrounding units are in commercial uses including restaurants, bars, takeaways and nightclubs, with Glasgow Dental Hospital and School opposite.
- 1.4 The properties above are used as Housing Association emergency accommodation.
- 1.5 It is proposed to amend or delete condition 3 attached to planning permission 20/01876/FUL, which gave permission for the change of use of the unit from a betting office to an adult gaming centre (both sui generis).
- 1.6 Condition 3 restricts the hours of operation of the adult gaming centre to between 8am and midnight, 7 days a week, to protect local residents from exposure to noise and disturbance at unsocial hours.
- 1.7 The applicant requests that this condition be removed to allow 24 hour opening of the adult gaming centre, or if this is not seen as appropriate for the condition to be amended to allow opening between 8am and 4am, 7 days a week, in line with other uses in the area.

2 DEVELOPMENT PLAN POLICIES

- 2.1 The relevant National Planning Framework 4 (NPF4) and City Development Plan policies and Supplementary Guidance are:

NPF4 Policy 23 Health and Safety

NPF4 Policy 27 City, Town, Local and Commercial Centres

CDP2: Sustainable Spatial Strategy & SG2 City Centre Strategic Development Framework

CDP4 & SG4: Network of Centres

3 REASONS FOR REFUSAL / RELEVANT CONDITION(S)

- 3.1 The reasons for refusal are set out below:

01. The proposal was not considered to be in accordance with the Development Plan and there were no material considerations which outweighed the proposal's variance with the Development Plan.

02. The proposal is contrary to NPF 4 policy 14, 23, 26 and 27 and CDP 1, CDP 2 and CDP 4 associated supplementary guidance of the Glasgow City Development Plan (adopted March 2017) as the proposal would be detrimental to residential amenity of the location due to increased footfall and noise at unsocial hours. Furthermore, the use is not considered to benefit the health and wellbeing of the community.

4 APPEAL STATEMENT

4.1 A summary of the material points raised in the appeal statement is given below:

- The premises have been operating as an adult gaming centre since June 2021 with no noise complaints, as has the applicant's other premises on Queen Street which are open 24 hours.
- The site is in a strategic thoroughfare and mixed-use area within the city centre with a variety of late-night uses which contribute to a higher level of background noise.
- Late-night patronage of adult gaming centres is relatively low and is generally individuals rather than noisy groups. The applicant does not consider these levels of patronage to be material or that the extension of the opening hours will exacerbate any existing issues.
- The premises does not serve alcohol.
- Firewater closes at 3am, other surrounding businesses close at 4am.
- The site is well served by local bus and active travel routes.
- The proposal will improve the quality of the urban area and have a positive impact on the vitality and viability of the centre by job creation, providing a positive and active frontage during the night, with natural surveillance and an active presence for the street 24 hours a day which could deter anti-social behaviour, as well as further contributing to the city's leisure offer and night-time economy.
- As the premises do not serve alcohol or allow access to customers who have consumed alcohol it will support women's safety by increasing natural surveillance. Admiral has also partnered with WalkSafe.
- Customers are likely to be passing trade rather than new trips. The extension of the opening hours would not therefore increase footfall.
- The applicant is open to an alternative condition for either a trial period of 24 hour opening or extended hours to bring it into line with neighbouring uses.
- The site is not within a residential area but a city-centre mixed-use area, the proposal will not alter the character of the place or its compatibility with residential uses.
- The site has been deemed acceptable for temporary emergency housing association use.
- The noise assessment concluded there would be no significant noise impact.

- The location is suitable in terms of protecting and promoting the City Centre's diverse function and protecting and reinforcing town centres as the preferred locations for uses which generate significant footfall.
- With regard to vulnerable users, there is no concern about access to gambling as this is available online and there is a 24-hour licenced casino a 3-minute walk from the premises.

4.2 The applicant did not request any further procedure in the determination of the review.

5 REPRESENTATIONS AND CONSULTATIONS

5.1 There were no representations received and no consultations were undertaken.

6 COMMITTEE CONSIDERATIONS

6.1 As this is a review of an application made under Section 42 of the Planning Act, any approval comprises a new permission for the development with different or new conditions attached. Committee can only consider the question of the conditions subject to which planning permission should be granted.

6.2 Permission can be granted subject to conditions different from those attached to the previous permission. If the committee decide that the application should be granted subject to the same conditions as already attached, the Section 42 application should be refused.

6.3 All the conditions from the previous permission that are felt to remain appropriate should be attached to the new permission.

6.4 The existing conditions attached to the proposal are:

01. Noise from or associated with the completed development (the building and fixed plant) shall not give rise to a noise level, assessed with windows closed, within any dwelling or noise sensitive building in excess of that equivalent to Noise Rating Curve 35 between 0700 and 2200, and Noise Rating Curve 25 at all other times.

Reason: To protect the occupiers of dwellings or noise sensitive buildings from excessive noise.

02. Acoustic/amplified music from the premises shall not give rise to a noise level, assessed with windows closed, within any dwelling or noise sensitive building in excess of that equivalent to Noise Rating Curve 35 between 0700 and 2200, and Noise Rating Curve 25 at all other times.

Reason: To protect local residents from exposure to noise and disturbance at unsocial hours.

03. The use of the premises shall be restricted to the following days and hours of operation: Monday to Sunday, 08:00 - 24:00.

Reason: To protect local residents from exposure to noise and disturbance at unsocial hours.

04. For the avoidance of doubt, no items of fixed furniture, fixtures or fittings or advertisements shall be placed within or on the shopfront glazing area so as to obscure views into the premises.

Reason: To safeguard the character of the listed building.

05. All external fittings including roof terminals, burglar alarms, air conditioning and ventilation plant, ducts and grilles, balanced flues and security fittings shall be factory finished or painted out to match the colour of the background to which they are attached.

Reason: To safeguard the character of the listed building and the character of the surrounding conservation area.

6.5 The key issues for Committee to consider are:

NPF4 Policy 23 Health and Safety

Policy Intent: To protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing.

e) Development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.

- The proposal is within the City Centre Strategic Economic Investment Location, and the City Centre Edge of Centre zone 1, as well as Glasgow Central Conservation Area. The surrounding area is mixed use with a number of late night operations with opening hours until 3 or 4am.
- The flats above are in use as Housing Association emergency accommodation.
- Committee should consider whether the proposal will create unacceptable noise issues that would require a change to the existing conditions.

NPF4 Policy 27 City, Town, Local and Commercial Centres and CDP4/SG4: Network of Centres

NPF4 Policy Intent: To encourage, promote and facilitate development in our city and town centres, recognising they are a national asset. This will be achieved by applying the Town Centre First approach to help centres adapt positively to long-term economic, environmental and societal changes, and by encouraging town centre living.

a) Development proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses, will be supported.

b) Development proposals will be consistent with the town centre first approach. Proposals for uses which will generate significant footfall, including commercial, leisure, offices, community, sport and cultural facilities, public buildings such as libraries, education and healthcare facilities, and public spaces:

i. will be supported in existing city, town and local centres,

c) Development proposals for non-retail uses will not be supported if further provision of these services will undermine the character and amenity of the area or the health and wellbeing of communities, particularly in disadvantaged areas.

These uses include:

i. Hot food takeaways, including permanently sited vans;

ii. Betting offices; and

ii. High interest money lending premises.

SG4 provides the following relevant guidance:

Food, Drink and Entertainment Uses

This section is relevant when assessing development proposals for the following uses: Class 3 (Food and Drink), Class 11 (Assembly and Leisure) and specific Sui Generis uses (including hot food shops, public houses and composite/hybrid uses). These will be referred to in the following guidance as food, drink and entertainment uses, unless the Use Class is specified. Appendix 2 provides a useful guide to help determine whether a development is a Classes 1, 3 or Sui Generis use. Uses are considered to be ancillary to the primary use where they account for less than 20% of gross floor area (including outdoor seating areas but excluding back of house areas).

The Council has to strike a balance between the encouragement of uses that make the City more vibrant, and the need to preserve a reasonable level of amenity for adjoining occupiers, particularly neighbouring residents. The following guidance therefore deals primarily with issues of amenity arising from food, drink and entertainment development proposals. Applicants must address both the Locational Guidance and Technical Guidance outlined below:

Assessment Guideline 10: Food, Drink and Entertainment Uses

In order to protect residential amenity, the following factors will be taken into consideration when assessing whether the location of proposed food, drink and entertainment uses is acceptable:

a) City-Wide:

(i) Proposals for food, drink and entertainment uses must not result in a detrimental effect on the amenity of residents through the effects of increased noise, activity and/or cooking fumes.

b) Within the City Centre:

(i) Public houses, Class 11 and Sui Generis uses must not be located within existing residential buildings.

(ii) Public houses, Class 11 and Sui Generis uses will not be supported where they are likely to have a detrimental impact on noise levels in close proximity to existing residential buildings, unless satisfactory mitigating measures enable the retention of the current levels of residential amenity and provided the proposal is acceptable in other respects.

(v) Hours of operation will be limited to between 08:00 hours and 24:00 hours, depending on local circumstances. Uses, such as public houses, night clubs and casinos, wishing to operate beyond 24:00 hours will be assessed on their individual merits and location within the City Centre.

- The site is within the city centre.
 - The proposal is for a non-retail use.
 - The site is located below properties in use as emergency residential accommodation.
 - The application requests an extension of opening hours beyond 24:00 hours, either to 24-hours or to 4am.
- Committee should consider whether the proposal will enhance and improve the vitality and viability of the city centre or whether it will undermine the character and amenity of the area or the health and wellbeing of communities in a way that would require a change to the existing conditions.
- Committee should consider the proposed opening hours and whether an extension of these would harm residential amenity through the effects of increased noise and/or activity.

SG2 City Centre Strategic Development Framework

Priority Issues

- Ensure activation of mono-cultural areas and address lack of mix of uses to bring life and vibrancy and prevent sterile 'no go quiet areas'
- Manage the day to night transition and support the day and night time economies
- Support the changing needs of businesses and workplaces within mixed use environments that allow adaptability, agility and activity
- Ensure the city centre is an equitable place for all Glaswegians to enjoy, with something for everyone

This SDF supports a transformation of the City Centre that focusses on people, place and planet to ensure its future social, economic and environmental resilience.

Priority 1 Accelerate transformation of the urban environment to ensure climate resilience, improved liveability and place quality.

Priority 2 Increase activity and diversity in the centre to support its continued prosperity at the heart of the City region and as a key contributor to the national economy.

Vision - The City Centre will be a vibrant, inclusive, sustainable and liveable place. A green, attractive and walkable City Centre will ensure a people friendly place that is climate resilient, fosters creativity and opportunity and promotes social cohesion, health and wellbeing and economic prosperity.

Key outcomes

A VIBRANT CITY CENTRE

The City Centre will be a vibrant, attractive centre for knowledge and innovation driving an inclusive growing economy. The strategic approach seeks to;

- repopulate the centre to bring life to the whole centre;
- ensure a greater blend of uses at neighbourhood level, for round the clock activity;
- create more attractions across the centre and diversify the experiential offer of the retail core; and
- improve the quality of the public realm to attract more residents, businesses and visitors.

A SUSTAINABLE CITY CENTRE

The City Centre will be liveable and inclusive, and home to double its population within diverse 20 minute neighbourhoods that foster healthy and resilient communities. The strategic approach seeks to;

- promote city centre living within sustainable 20 minute communities;
- enhance the distinctive and historic townscape of the City Centre; and
- ensure densification is sustainable and facilitates repair of the urban townscape.

- The proposal is to extend the opening hours of the existing adult gaming centre to allow 24 hour operation within the City Centre.

➤ Committee should consider whether the proposal:

- Brings life and vibrancy to the area
- Supports the day and night time economies
- Allows adaptability, agility and activity
- Increases activity and diversity, supporting the City's continued prosperity
- Helps create a people friendly place that promotes social cohesion, health and wellbeing and economic prosperity

- Creates round the clock activity

7 COMMITTEE DECISION

7.1 The options available to the Committee are:

- a. Refuse the Section 42 application, i.e. grant planning permission with the same conditions, or
- b. Approve the Section 42 application, i.e. grant planning permission with amended conditions.

DRAFT CONDITIONS

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05. All external fittings including roof terminals, burglar alarms, air conditioning and ventilation plant, ducts and grilles, balanced flues and security fittings shall be factory finished or painted out to match the colour of the background to which they are attached.

Reason: To safeguard the character of the listed building and the character of the surrounding conservation area.

2 Policy and Resource Implications

Resource Implications:

Financial: n/a

Legal: n/a

Personnel: n/a

Procurement: n/a

Council Strategic Plan: n/a

Equality and Socio-Economic Impacts:

Does the proposal support the Council's Equality Outcomes 2021-25? Please specify. n/a

What are the potential equality impacts as a result of this report? no significant impact

Please highlight if the policy/proposal will help address socio-economic disadvantage. n/a

Climate Impacts:

Does the proposal support any Climate Plan actions? Please specify: n/a

What are the potential climate impacts as a result of this proposal? n/a

Will the proposal contribute to Glasgow's net zero carbon target? n/a

Privacy and Data Protection Impacts:

Are there any potential data protection impacts as a result of this report
N

If Yes, please confirm that

a Data Protection Impact
Assessment (DPIA) has
been carried out

3 Recommendations

That Committee consider the content of this report in coming to their decision.