



Planning Committee

Report of Head of Planning and Building Control on 09 February 2023

Plans List Item Number: 1

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 9-11, PARK STREET, WALSALL, WS1 1LY

Proposal: CHANGE OF USE OF THE GROUND FLOOR FROM AN ELECTRONIC BINGO CENTRE (SUI GENERIS) TO AN ADULT GAMING CENTRE (ACG) (SUI GENERIS).

Application Number: 22/0587

Case Officer: Martin Dale

Applicant: Luxury Leisure Ltd

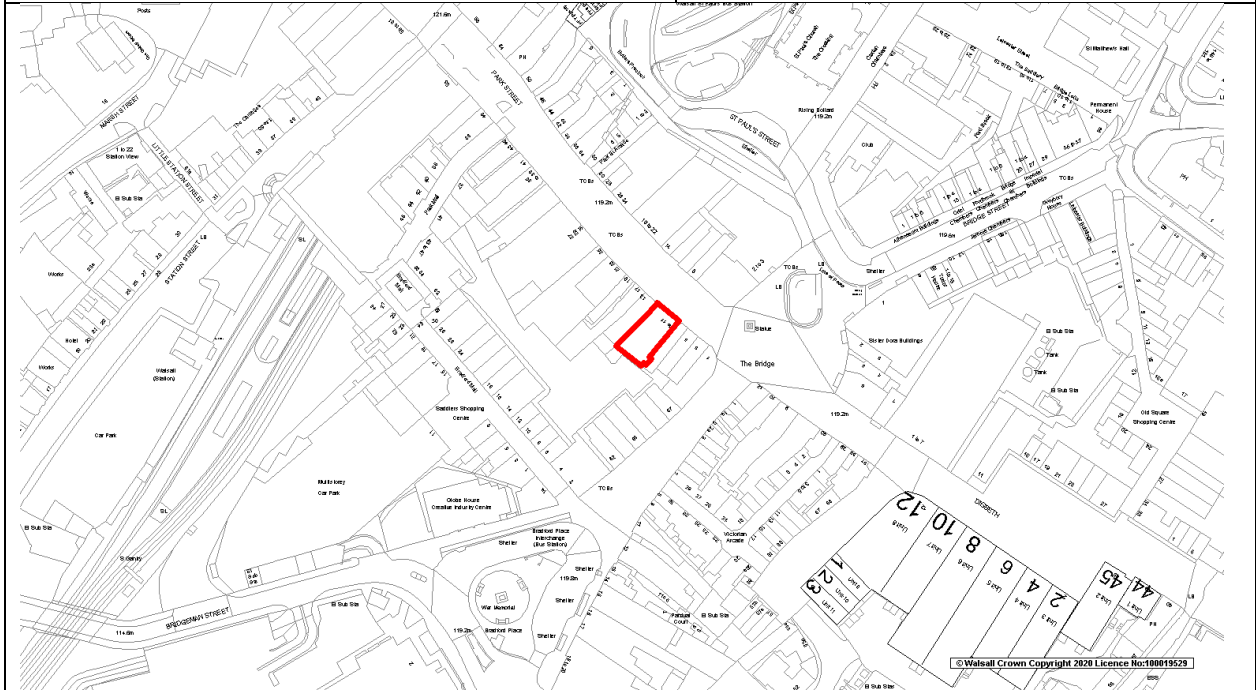
Ward: St Matthews

Agent:

Expired Date: 24-Jun-2022

Application Type: Full Application: Change of Use

Time Extension Expiry:



Crown Copyright and database rights 2022 Ordnance Survey 100019529

Recommendation:

Grant Planning Permission Subject to Conditions

Proposal

This application seeks to change the use of a double fronted unit at no 9-11 Park Street, Walsall from an electronic bingo hall (Sui Generis) with slot machines retro games and café to an adult gaming centre (Sui Generis).

Site and Surroundings

The site is situated on the southwestern side of Park Street, within Walsall Town Centre, the main pedestrianised street and primary shopping frontage within the town centre that consists of a number of retail and other town centre uses including shops, takeaways and restaurants.

The building is a three-storey unit that is currently vacant.

The previous uses on the ground and first floor levels were as a bingo hall with slot machines retro games and cafe. The site was vacated in 2018.

As detailed in the planning history this use was granted by the planning inspectorate following an appeal.

The existing shop front is to be retained, albeit externally finishing it in a bright blue colour.

Park Street has a number of shop frontages with large, glazed window displays.

The site is within Bridge Street Conservation Area.

Relevant Planning History

17/0662- Projecting and fascia signage and vinyl's to shopfront. Approved
10/07/2017

16/1145 - Change of uses to electronic bingo centre with ancillary food and drink operations alterations to entrance doors and erection of air compressor units Granted on Appeal 14/02/2017

13/0191/FL-New Shop Front. Approved 08/04/2013

07/0632/FL/W9- Installation of new shop front including roller shutter. Approved
26/06/2007

07/631/AD/W9- Display of 2 internally illuminated fascia signs and 1 internally illuminate projecting sign. Refused 12/06/2007

02/2362/AD/W4 - Display of fascia and projecting sign. Approved

BC54974P- Installation of 1 box fascia sign and 1 projecting sign illuminated. Approved 02/12/1999

BC54976P/C - Installation of new shopfront. Approved 02/12/1999

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 56) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV27: Buildings of Historic or Architectural Interest
- ENV 28: The Local List of Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- S4: The Town and District Centres: General Principles
- S9: Amusement Centres and Arcades

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP4 Place Making
- CEN4: Regeneration of Town Centres
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable

Walsall Town Centre Area Action Plan 2019

- AAPS1: Primary Shopping Area
- AAPLV5: Protecting and Enhancing Historic Character and Local Distinctiveness
- AAPLE1: New Leisure Development
- AAPLV6: Securing Good Design

Supplementary Planning Documents

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Shopfront SPD

- SF1: Historic shop fronts
- SF2: Shop front proportions
- SF3: Materials in shop fronts
- SF4: Colour finishes
- SF5: Access to shops
- SF6: Advertisements
- SF7: Illumination
- SF8: Shop front security

Consultation Replies

Environmental Protection

Consider that there are no significant noise, water, air or land pollution concerns associated with the application that require addressing.

Highway Authority

No objection

Conservation Officer

No objection

West Midlands Police

No Objection

Representations

5 x Letters of objection received on grounds of 24-hour opening will create antisocial and criminal behaviour

Determining Issues

-
- Principle of Development
- Heritage Assessment
- Impact upon adjoining occupiers
- Highways
- Fear Crime Anti-Social Behaviour

Assessment of the Proposal

Principle

Local policy supports the provision of leisure uses in the Primary Shopping Area where the retail function of the centre is not prejudiced, especially those that are contributory to centre vitality and viability.

As the existing uses is a bingo centre and café there will be no retail loss.

National policy supports strategic planning for centres 'allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries.

The AAP recognises more footfall is needed along Park Street and up to St Mathew's quarter especially at night. This proposal offers an opportunity to improve this whilst its size would not be of a scale to jeopardise the delivery of the Waterfront as a leisure destination.

The principle of the proposed use is supported and would enhance the vitality and viability of the town centre by bringing back into use a currently vacant unit within a primary shopping frontage and the conservation area, plus increasing foot fall, helping to diversify the town centre offer, whilst widening the hours of the day when customers will want to visit and use the town centre.

The principle of the proposed use is supported and would enhance the vitality and viability of the town centre by bringing back into use a currently vacant unit within a primary shopping frontage

Heritage

The site is within Bridge Street Conservation Area

The Lloyds Bank building on Park Street facing the site is a Grade II listed building and the row of shops formed by 8-14 Park Street are locally listed

Park Street is pedestrianised area of Walsall town centre where there are a number of shop frontages, mostly with large, glazed frontages.

The change of use of the building is appropriate in principle from a historic environment perspective, with the main considerations being the appearance of the shopfront.

The shopfront albeit it changed in colour to blue remains unchanged

Paragraph 202 of the NPPF states 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

The proposed change of use has less than substantial harm to the significance of the conservation area and the setting of Lloyds Bank, Grade II listed building. The public benefits arising from bringing a vacant unit back into use which will help support the vitality of the town centre outweighs this harm.

Impact on adjoining premises

The proposed opening hours are 24 hours 7 days a week.

The proposed use is a unique concept and is considered would not have an unacceptable level of impact on any other surrounding uses in terms of their viability and is likely to promote and improve pedestrian footfall and likely to increase trade around this part of Park Street.

The proposals do not involve any extensions or additions to the floorspace only refurbishment of the premises which will not impact on the amenities of the surrounding occupiers.

On balance it is considered this is not uncommon in to find this form of use within a town centre and it will not unduly impact the amenity of adjoining premises

A noise assessment has been undertaken which concluded that when taking into account anticipated trading noises level, the noises insulation of the existing shopfront and the separation distances and intervening premises that and any adverse impact on nearby residential properties will be acceptable

In addition, the submitted planning statement advises that the Inspector concluded in his decision notice that the nature of an adult gaming centre is unlikely to result in undue noise and disturbance within this town centre location and did not consider it necessary to limit the opening hours.

There are a number of other premises with late opening times in the area.

Environmental Protection is of the opinion that there are no significant noise, water, air or land pollution concerns associated with the application that require addressing.

Parking and Access

This is a Town Centre location with access to various modes of transport and parking facilities. This is considered to be a sustainable location and the Local Highways Authority have no objections to the proposal on highways grounds.

Fear of Crime

The applicant in the submitted planning statement address this issue by demonstrating there has been a limited number of anti-social behaviour incidents in the locality of the site.

The Inspector considered the presence of customers and staff into the town centre they would act as a deterrent as this would provide some natural surveillance.

In addition, any separate necessary licence will be subject to appropriate conditions and limitations regarding anti-social behaviour.

West Midland Police have raised no objection to the scheme.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the principle of the proposed use is supported and would enhance the vitality and viability of the town centre by bringing back into use a currently vacant unit within a primary shopping frontage and the conservation area, plus increasing foot fall, helping to diversify the town centre offer, whilst widening the hours of the day when customers will want to visit and use the town centre.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP4, CEN4, ENV2, ENV3 and ENV5 of the Black Country Core Strategy and saved policies GP2, GP5, GP6, ENV27, ENV28, ENV32, ENV35, S1, S2, S4, S9, of Walsall Unitary Development Plan; policies AAP1, AAPS1, AAPLE1, AAPLV5, AAPLV6 and AAPT5 of Walsall Town Centre Area Action Plan and Supplementary Planning Document policies DW1, DW2, DW3, DW4, DW5, DW6, DW7, DW8, DW9, DW10 of Designing Walsall.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable, and no further changes have been requested.

Recommendation

Grant Planning Permission Subject to Conditions

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2: The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Existing and Proposed Plans DWG 3439(B)01 Received 26/04/2022
- Existing and Proposed Elevations DWG 3439(B)02 Received 26/04/2022

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

Notes for Applicant

This permission does not grant consent for any signs or advertisements, illuminated or non-illuminated for which a separate application may be required under the Town and Country Planning (Control of Advertisements) Regulations 2007 or subsequent legislation

This permission does not grant consent for any security shutters for which a separate application will be required. Further advice regarding the appropriateness of security shutters can be found in the Councils Shop Front SPD as well as contacting the conservation officer conservation@walsall.gov.uk .

Fire Officer

Approved Document B, Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 amendments – for use in England

Requirement B5: Access and facilities for the fire service

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Requirement

Limits on application Access and facilities for the fire service B5.

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

Intention

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
 - i. search for and rescue people
 - ii. fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

Section 15: Vehicle access

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

- a. 15% of the perimeter.

b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors)

Buildings fitted with fire mains

15.4 For buildings fitted with dry fire mains, both of the following apply.

a. Access should be provided for a pumping appliance to within 18m of each fire main inlet connection point. Inlets should be on the face of the building.

b. The fire main inlet connection point should be visible from the parking position of the appliance, and satisfy paragraph 16.10.

15.5 For buildings fitted with wet fire mains, access for a pumping appliance should comply with both of the following.

a. Within 18m, and within sight of, an entrance giving access to the fire main.

b. Within sight of the inlet to replenish the suction tank for the fire main in an emergency.

15.6 Where fire mains are provided in buildings for which Sections 16 and 17 make no provision, vehicle access may be as described in paragraphs 15.4 and 15.5, rather than Table 15.1.

Design of access routes and hard-standings

15.7 Access routes and hard-standings should comply with the guidance in Table 15.2. Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height.

a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter.

b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 15.2)

Section 16: Fire mains and hydrants

Provision of fire mains

16.2 Buildings with firefighting shafts should have fire mains in both of the following.

- a. The firefighting shafts.
- b. Where necessary, in protected escape stairs. The criteria for providing firefighting shafts and fire mains are given in Section 17.

16.3 Buildings without firefighting shafts should be provided with fire mains where fire service vehicle access is not provided in accordance with Table 15.1. In these cases, outlets from fire mains should be located as described in paragraph

16.4, with a maximum hose distance of 45m from the fire main outlet to the furthest point, measured on a route suitable for laying a hose. Stairs do not need to be designed as firefighting shafts.

Provision of private hydrants

16.8 A building requires additional fire hydrants if both of the following apply.

- a. It has a compartment with an area more than 280m².
- b. It is being erected more than 100m from an existing fire hydrant.

16.9 If additional hydrants are required, these should be provided in accordance with the following.

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.

b. For buildings not provided with fire mains – hydrants should be both of the following.

i. Within 90m of an entrance to the building.

ii. A maximum of 90m apart.

16.10 Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position, in accordance with BS 3251. 16.11 Guidance on aspects of provision and siting of private fire hydrants is given in BS 9990.

Water Supplies

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

The approval of Building Control will be required to Part B of the Building Regulations 2010

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 8)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

Consideration should also be given to the following - If the fascia sign consists of luminous tube signs, designed to work at a voltage normally exceeding the prescribed voltage then it is required to be provided with a cut-off switch. This is in accordance with The Regulatory Reform (Fire Safety) Order 2005, PART 5 MISCELLANEOUS, Section 37. Fire-fighters' switches for luminous tube signs etc.

West Midlands Police

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

I would recommend security using the principles of Secured By Design.

Below is a link to secured by design guides, including Commercial, police approved crime reduction information.

<https://www.securedbydesign.com/guidance/design-guides>

Below is a link to secured by design commercial, police approved crime reduction information guidance.

https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf

Secured By Design security standards are explained.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

END OF OFFICERS REPORT