



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 16 Awst 2022

gan **I Stevens BA (Hons) MCD MRTPI**

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 28/09/2022

Appeal Decision

Site visit made on 16 August 2022

by **I Stevens BA (Hons) MCD MRTPI**

**an Inspector appointed by the Welsh
Ministers**

Date: 28/09/2022

Appeal Ref: CAS-01509-P1Z2X3

Site address: 2-4 Monnow Street, Monmouth, Monmouthshire, NP25 3EE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Mr Henry Danter against the decision of Monmouthshire County Council.
 - The development proposed is change of use of former music shop to adult gaming centre.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of former music shop to adult gaming centre at 2-4 Monnow Street, Monmouth, Monmouthshire, NP25 3EE, in accordance with the terms of the application, Ref DM/2021/00050, dated 15 February 2021, subject to the conditions set out in the schedule to this decision letter.

Procedural Matter

2. Evidence was originally due to be heard at a Hearing. However, having regard to the fact that the principal matters of dispute relate to the change of use at the appeal property, the appeal has proceeded under the written representations procedure without any prejudice to the parties' cases. I note the appellants' concerns regarding this approach. Nevertheless, the planning merits of the case have been clearly outlined by the appellant and the principal matters of dispute do not require cross examination.

Main Issue

3. The main issue is the effect of the proposed development on the vitality and viability of Monmouth town centre.

Reasons

4. The appeal property is a vacant ground-floor unit, formerly a music shop, in Monmouth town centre. It is located at the corner junction of Agincourt Street and Monnow Street, having a dual aspect frontage that also faces towards Agincourt Square. The proposal

would change the use of the unit from retail (A1 use class) to an adult gaming centre (sui generis).

5. The property is located in the Central Shopping Area (CSA) of Monmouth town centre, as defined in the Monmouthshire Local Development Plan (LDP), adopted in February 2014. Policy RET2 of the LDP requires proposals within CSAs to satisfy relevant criteria. Criterion a) permits proposals which will safeguard the vitality, attractiveness and viability of the CSA. Criterion b) permits changes of use from classes A1-A3 on the ground floor with street frontage to other uses, provided it is demonstrated that criterion a) can be met by attracting footfall. The LDP supporting text recognises that uses other than retail can add to a centre's diversity and may be acceptable where it does not harm the vitality, attractiveness or viability of centres.
6. There are a mix of retail and non-retail uses in the immediate area, including building societies, public houses/restaurants, a clothes shop, charity shop and hairdressers amongst others. This mix contributes to the vitality of the shopping area, where during my late afternoon site visit, I observed the town centre was busy. There was a steady stream of road traffic and pedestrian footfall along Monnow Street, where efforts to enhance the shopping experience through outdoor seating and planters was evident, together with traffic management measures which require vehicles to stop near the appeal building and take turns to pass. Several people were also sitting at a nearby public house in Agincourt Square. I recognise these observations were a snapshot in time, but the overall impression was of a healthy town centre.
7. The CSA designation reflects Planning Policy Wales (PPW) (Edition 11, 2021), which states that vibrant and viable centres are distinguished by a diversity of activity and uses which should contribute towards a centre's well-being and success, whilst also reducing the need to travel. PPW adds that leisure and entertainment uses can benefit retail and commercial centres, and with adequate attention to safeguarding amenities can contribute to a successful evening economy.
8. Several representations refer to the negative effects that adult gaming centres have on retail vitality in shopping areas. The Council states that it has not been evidenced how the proposal would attract footfall. In this instance, securing a leisure use for the appeal property would not be uncommon in a town centre, as the business would rely on footfall from visitors who attend the premises. There is no substantive evidence before me that the use would not attract footfall or discourage linked trips.
9. I recognise that the use of the adult gaming centre would be restricted to people over a certain age. However, I have not been provided with tangible evidence that this would lead to a reduced footfall in the town, or impact harmfully on the number of visitors to the town centre. Other businesses and services in the town centre may also have targeted audiences that attract different footfall levels. There is no empirical evidence before me that the proposal would appeal only to certain social groups, or that the proposed leisure use would necessarily harm the vitality and viability of the CSA. The proposal would bring a leisure use to the town centre and the appellant has confirmed that the premises would be open during the day and into the evening. It has scope to diversify the leisure offer in the town centre and complement efforts to develop the evening economy. I am therefore satisfied that the proposal would attract footfall, as required by Policy RET2 of the LDP.
10. I have not been informed of any other adult gaming centres in Monmouth Town Centre. I recognise there are other betting shops in the town centre and representations have referred to at least 2 units elsewhere. I note comments about the presence of other gaming machines in the betting shops. Nevertheless, there are differences between adult gaming centres and betting shops, not least in the main services offered. In any case,

given the diversity of uses within the CSA I did not experience a sense of over dominance of related gambling-related uses. I have seen no evidence that the proposal would lead to a cluster or concentration of similar uses, being the only such use in this immediate area. Given its location in the CSA, I do not consider that the proposal would lead to a fragmentation of the shopping frontage in this location.

11. While I also understand the concerns raised in respect of potential adverse social impacts of an adult gaming centre, the operation of the business would be controlled by other legislation, including the licensing regime which requires certain measures such as age restrictions and restricting people's ability to look into the shop. In planning terms, and on the evidence before me, I am not convinced that there would be demonstrable social harm arising from the proposed use, which would weigh against it.
12. The proposed adult gaming centre would retain the shop front and areas of glazing that are particularly evident along the wider frontage of Monnow Street. I accept that visual interest in the window display may be limited, given the appellant's need under law to ensure that people cannot look into the unit from outside. However, the obscuring of shopfront windows is not confined to adult amusement centres or betting shops. The adjacent building society had large displays in its window, which restricted views into the premises. Other A-class uses may have screening in their shopfront windows. In this regard, an active frontage has a broader function than being able to look through a shop window into a premises. The proposal would have the associated activity of people coming and going, thereby maintaining a level of footfall and contributing to the ground-floor activities that is characteristic of other town centre units, thereby contributing to the vitality and viability of the town centre.
13. I observed vacant units in the town centre, including around Agincourt Square. I do not have details of vacancy rates in the town centre, or how long other properties have been vacant in this area. I note that several representations refer to the lack of evidence on attempts to market the appeal property for alternative uses. The marketing of units is not a specific requirement of Policy RET2. The appeal site is located outside of the Primary Shopping Frontage, where different retail policy requirements apply. The Council states that the retail designation of the appeal property will be reviewed as part of the Replacement LDP process. However, I have little information on this approach or the status of the emerging plan and therefore give this very little weight. In any case, the proposal is assessed on its individual merits having regard to the relevant LDP policies and material considerations.
14. I conclude that the proposal would safeguard the vitality and viability of Monmouth town centre. The proposal would therefore comply with Policy RET2 of the Monmouthshire LDP, which seeks to ensure that ground floor premises are retained for uses that will sustain/enhance the vitality, attractiveness and viability of CSAs and complement their shopping role/character.

Other Matters

15. The appeal property is in the Monmouth Conservation Area and the Council has confirmed that the building is Grade II listed. I have had regard to advice in the Monmouth Conservation Area Appraisal & Management Proposals (2016). The Council's Conservation officer raises no objection to the proposal. Any proposed new signage would be subject to a separate application and does not form part of the appeal before me. Given the proposal is for a change of use only in a town centre location, with the Council confirming that no physical alterations to the unit are proposed, I am satisfied that the character and appearance of the Conservation Area would be preserved.

16. The River Wye is a Special Area of Conservation (SAC) and is protected under the conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The appeal property is in the phosphorous sensitive area of the Wye Valley Catchment. Given the nature of the appeal proposal, the Council is satisfied that it is unlikely to increase the amount of phosphorous entering the catchment area and is unlikely to have a significant effect on the SAC. I see no reason to disagree with the Council on this matter.

Conditions

17. I have considered the conditions recommended by the Council in the light of advice in Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management'. Conditions regarding the standard time limit and development being carried out in accordance with approved plans are reasonable and necessary. A condition requiring a noise management plan is a reasonable measure to set out how noise generated from the premises would be managed, in the amenity interests of neighbouring properties.
18. While no physical alterations are proposed, and no ecological information was requested, it is necessary to consider national planning policy. Future Wales: The National Plan 2040 (February 2021) requires development proposals to demonstrate action towards securing the maintenance and biodiversity (to provide a net benefit) in all cases. A biodiversity enhancement condition is therefore necessary to ensure the proposal complies with national planning policy.

Conclusion

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.
20. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

I Stevens

Inspector

SCHEDULE OF CONDITIONS

- 1) This development shall be begun within 5 years from the date of this permission.
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) The development shall be carried out in accordance with the following approved plans: Site Plan and Floor Plan.
Reason: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.
- 3) Prior to the first occupation of the adult gaming centre use, a noise management plan detailing how noise from the premises will be managed shall be submitted to and approved in writing by the Local Planning Authority. The adult gaming centre hereby approved shall only be operated in accordance with the approved noise management plan in perpetuity.
Reason: To protect the amenity of neighbouring properties and to ensure compliance with Policy EP1 of the Monmouthshire Local Development Plan.
- 4) No development shall take place until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
Reason: Future Wales, Planning Policy Wales and Policy NE1 of the Monmouthshire Local Development Plan requires all development to maintain and enhance biodiversity.