

Report to Planning and Licensing



Date of Meeting	5 th November 2020
Portfolio	Councillor Carol Wardle Cabinet Member for Planning, Development & Housing
Report Author	John Van Eker
Public/Private Document	Public

Application: 20/00805/FUL	Township: Middleton	Ward: North Middleton
Applicant: Laaj enterprises LTD	Agent: Mr Thomas DiFelice	
Site Address: 5 Market Place Middleton M24 6AE		
Proposal:	Change of use from financial and professional services (A2) to nightclub (Sui Generis).	

SITE LOCATION



DELEGATION

- 1.1 The application falls to be determined by the Planning and Licencing Committee by reason of it having been called in by Ward Cllrs Rowbotham and Nolan on the 13th of August 2020.

PROPOSAL SUMMARY

- 2.1 Full planning permission is sought for the change of use of the unit from an A2 use to a nightclub (sui generis).

RECOMMENDATION

- 3.1 It is recommended that the Planning and Licencing Committee resolves to **GRANT** planning permission.

REASON FOR RECOMMENDATION

- 4.1 The proposal would bring a vacant unit back into use and therefore contribute to the vitality of Middleton Town Centre without being detrimental to the operations of surrounding occupiers. As such the application is considered to accord with Core Strategy policies E1, DM1 and G9 and the NPPF.

SITE

The application relates to no. 5 Market Place in Middleton, a four storey Local Interest Building currently occupied by a branch of the Royal Bank of Scotland. The majority of the building was rebuilt in brick in the early 1990s but the building retains its stone façade which contains several of its original features. The building is located within the Middleton Town Centre Conservation Area; with the Council's Conservation Area Appraisal (CAA) identifying the significance of the conservation area as being through the grouping of a number of listed buildings including arts and crafts buildings by the renowned architect Edgar Wood.

The adjoined building to the west is the Edgar Wood designed Grade II listed No. 3 Market Place which was built in 1892 and listed in 1987. This building now forms part of the Asheton Arms public House which is located at the junction of Long Street and Market Place. The adjacent building to the east includes Nos. 7-11 Market Place and is an attractive Local Interest Building. Surrounding land uses are predominantly commercial with Middleton Arena located across Market Place and a public car park to the south. The immediate street scene is heavily influenced by the by the Long Street Roundabout and associated pedestrian subway infrastructure.

PROPOSAL

The application seeks to change the use of the building from an A2 use to that of a nightclub (sui generis). No external alterations are proposed as part of this application and the installation of any external signage would be necessary by means of an advertisement consent application.

A number of internal alterations are proposed to enable the subsequent use however these are not relevant to the determination of this application.

The layout of the proposed nightclub will see the layout of the building retained with the ground floor area to be used as the primary nightclub area with bar and a private VIP function space to the rear at ground floor also. The total area of the ground floor is approximately 200 square metres in total. The existing central staircase is to be retained which will provide access to the first floor which consists of toilet areas (approx. 23 square metres), storage areas (approx. 21 square metres), staff room (approx. 26 square metres) and an additional private VIP function space measuring approx. 63.5 square metres. Remaining floor space to first floor is consumed by access corridors as well as the staircase area.

The basement and second floor of the property are not proposed to be used in association with the proposed nightclub use.

PLANNING POLICY

Local

Adopted Rochdale Core Strategy (2016)

The Core Strategy policies that are relevant to the assessment of this application are as follows:

SO1 Delivering a more prosperous economy

- E1 Establishing thriving town, district and local centres
- SO3 Improving design, image and quality of place**
P2 Improving Landscape, Character and Heritage
P3 Improving design of new development
- SO4 Promoting a greener environment**
G9 Reducing the impact of pollution, contamination and land instability
- SO5 Improving accessibility and delivering sustainable transport**
T2 Improving accessibility
- DM1 General development requirements
- SD1 Delivering sustainable development

Saved Policies of the Rochdale UDP

The following policies remain extant and relevant to the determination of this application following the adoption Rochdale Core Strategy in October 2016.

- G/D/1 Defined Urban Area**
G/S/1 Hierarchy and Role of Centres
BE/17 *New Development Affecting Conservation Areas Policy to be read in conjunction with CS Policy P2 until replaced by Site Allocations or other DPD.*

National

National Planning Policy Framework (NPPF)

RELEVANT PLANNING HISTORY

- 18/00599/FUL Removal of the branded fascia, face-fixed signage and projecting sign above ground floor and adjacent to the entrance and repair stonework behind. Removal of the automatic teller machine and a stainless steel receptacle for ATM receipts below and replace with a new window and stone sub cill-to restore the window and cill to their former condition. Approved with conditions 06 September 2018.
- 12/A5970 Installation Of One Internally Illuminated Fascia Sign, One Externally Illuminated Projecting Box Sign And One Internally Illuminated ATM Header Sign To Front Elevation Of Premises. Granted STC May 2012
- 05/A5461 Externally illuminated fascia and wall mounted signs and externally illuminated projecting box sign. Granted STC January 2006
- 01/D39522 Alterations to front elevation to include improved access for the disabled including installation of lighting facilities. Granted STC January 2002
- 97/D43159 Installation of 90cm wall mounted satellite dish. Granted June 1997

- 89/D23310 Partial demolition of bank premises (front façade retained). Granted
STC June 1989
- 89/D23309 Rebuilding of bank premises with retention of existing front façade.
Granted STC June 1989
- 83/D15322 Two storey extension to rear of existing bank premises. Granted STC
July 1983
- 80/D11858 Fire escape. Granted STC March 1989

CONSULTATION RESPONSES

Conservation and Design

As the proposed works do not seek to make any external alterations and propose only minor internal alterations there are no comments or objections raised in response to this application.

This being said, it is worth highlighting that any subsequent application for the erection of signage at the premises must include sympathetic designs, materials and finished to complement the aesthetic of this non-designated heritage asset itself, the adjoining listed building and the wider conservation area

Highways and Engineering

Given the Town Centre location for this development there are no objections to this scheme.

Environmental Health

This section has no objections to the proposals in respects of noise. The site is located in a town centre area subject to existing night time entertainment and elevated noise levels.

Licensing

I understand that 5 Market Place is a stand alone / separate premises – situated adjacent to 3 Market Place.

In the event that we (Licensing Authority) receive ANY application for a premises licence for 5 Market Place – I can confirm that any such application would be subject to a 28 day consultation period during which time Interested parties (Local Residents / Councillors) and Responsible Authorities (GMP, Env Health, Trading Standards, GM Fire Rescue etc) would be able to submit representations against or in favour of any such application. Any such representations could ultimately be then considered by the Licensing Committee.

The granting of planning permission would therefore be no guarantee that the premises would necessarily achieve licensed status. In the event that planning permission were refused – then the business could not operate or be licensed for the retail of alcohol / licensable activities.

On this occasion it is proper for the Licensing Authority not to formally comment on any planning application and I offer the above information as general information as to process should planning permission be granted or refused.

Taxi Licencing

No comments received.

Greater Manchester Police

No comments received.

REPRESENTATIONS

A consultation exercise was carried out with regard to this proposal with 46 neighbour notification letters sent out. As a result of this exercise a total of 38 no. objections have been received alongside 2 no. neutral letters of representation, details of which are summarised below;

- Concerns about the impact of any development on the exterior of the property and the potential to have a negative effect on the surrounding heritage assets of the conservation area. In particular, the signage, decoration and lighting of the exterior façade
- It is a residential area with houses and flats adjacent/near to site. There would inevitably be a noise nuisance when the venue is open. This potential for night time disturbance would be particularly serious for nearby families with children
- Parking facilities limited outside venue
- Extra strain on police resources for dealing with incidents, bearing in mind that due to Covid19 factors police and emergency services would be stretched even further
- Proposal not in keeping with general cultural/historical character of local area.
- Nightclub will directly lead to antisocial behaviour
- The impact of signage and any changes to the external appearance will have a knock on effect on the setting of Edgar Wood's Grade II* listed building next door. The impact on the conservation area needs to be fully assessed

ANALYSIS

Principle of Development

The NPPF introduced a presumption in favour of sustainable development and advises that planning should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.

The application site lies within Middleton Town Centre as defined on the proposals map under saved policy G/S/1 of the Rochdale Unitary Development Plan. Policy E1 of the adopted Rochdale Core Strategy sets out that the Council will focus retail, leisure, cultural, office, residential and other development to promote the viability and vitality of all the Borough's town centres to maintain them as thriving and

sustainable centres and the preferred shopping and leisure destinations for people living, working and visiting the Borough.

It should also be noted that subsequent to the submission of this application, The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020 No.757) has been introduced by the government (20/07/2020), with this having taken effect on 1 September 2020. The new Regulations make radical changes to the 1987 Use Classes Order and these changes now sit alongside the recent additions to permitted development rights, with the aim being to support the high street revival and allow greater flexibility to change uses within town centres without the need for express planning permission.

The Regulations introduce three new use classes:

- **Class E** (Commercial, business and service) – including retail, restaurant, office, financial/professional services, indoor sports, medical and nursery uses along with “any other services which it is appropriate to provide in a commercial, business or service locality”;
- **Class F.1** (Learning and non-residential institutions) – including non-residential educational uses, and use as a museum, art gallery, library, public hall, religious institution or law court; and
- **Class F.2** (Local community) – including use as a shop of no more than 280 sqm mostly selling essential goods, including food and at least 1km from another similar shop, and use as a community hall, area for outdoor sport, swimming pool or skating rink.

It is therefore apparent from the above that Parts A and D of the original Schedule to the Use Classes Order have been entirely deleted, with Use Classes A1, A2, A3, parts of D1 and D2 subsumed into new Use Class E along with Class B1.

With this in mind, the application has been assessed within the context of the new Use Classes Order, with the existing use class being determined as Use Class E and the proposed use class being represented as sui generis.

The proposed nightclub would be located in close proximity to the existing Assheton Arms Public House and as such would be complimentary in terms of the type of service offered. The existing retail development of Market Place does not include a variety of A1 uses and the location of the nightclub at the edge of the main frontage town centre is not considered to result in a loss of activity for the other uses. Indeed, users of the facility may well use the other local amenities in addition and the primary hours of operation in the evening would contribute to an increased amount of activity and sense of vitality once the shops within the main centre have closed.

Therefore it is considered that the application proposal is acceptable in principle and in accordance with the relevant parts Core Strategy policy E1 and the requirements of the NPPF.

Impact on Heritage Assets and Visual Amenity

Policy P3 of the Core Strategy acknowledges that good design will improve the image and attractiveness of the borough as a place to live, work and visit. Policy P2 of the Council’s Core Strategy seeks to protect the Borough’s heritage by

conserving, enhancing and promoting key heritage assets, both statutory and non-statutory, including consideration of their wider settings. Policy DM1 states that proposals should be compatible with surrounding land uses.

In relation to the building itself, Officers recognise that this unit is not a designated heritage asset, however there is significance attached to its architectural appearance and its contribution to the character of the conservation area.

In this case the proposal would seek to make the building and its current use more viable and therefore would result in a positive impact upon the building and conservation area by retaining an active use of this now vacant building.

The works proposed are logical and modest in their scale and involve a change of use with internal reordering of existing space. There are no external works proposed which impact the building, its setting or wider conservation area.

The use of the building as a nightclub would entail noise generation and active, evening footfall. These in themselves would have little impact upon the character of this conservation area in that its character is already associated with commercial activities, alongside existing drinking establishments. Officers do not consider that the use would result in any undue detrimental impacts upon the wider heritage assets of this location.

As no external alterations to the building are proposed, the proposal is not considered to affect the visual amenities of the wider Middleton Conservation Area. The application is therefore acceptable in the above regard and in accordance with policies the relevant parts of Core Strategy policies P3, DM1 and the NPPF.

Impact on Surrounding Occupiers and Public Safety

Paragraph 127 of the National Planning Policy Framework advises that planning decisions should result in places with a high standard of amenity for existing and future users. Policy DM1 of the Core Strategy states that proposals should adversely affect the amenity of residents and be compatible with surrounding land uses. Policy G9 seeks to developments that would lead to an unacceptable increase in pollution.

As has previously been established, the proposed use is considered appropriate within a town centre location where drinking establishments, restaurants, financial institutions, retail and wider business activities are commonplace. The nearest residential properties to the application site are sited approximately 50 metres away at 71-73 Long Street (10 single occupancy properties). The unit is sited sufficient distance from any residential properties and the use proposed would not cause any noise and disturbance, over and above that already permitted at the site.

Many of the objections submitted do however relate directly toward the potential for antisocial behaviour associated with the use of the premises as a nightclub, however it is contended within this report that antisocial behaviour would not be a material consideration for this assessment in that such issues would be controlled by alternative legislation and enforced either by law enforcement and / or environmental health enforcement. The Council's Licensing Officer has also noted that the granting of a premises licence will be subject to a separate application process.

Whilst every effort has been made to obtain a consultation response from Greater Manchester Police, no comments have been made on this application. For the reasons listed above the principle and perceived impacts on neighbouring uses of the proposed change of use is considered acceptable at this location.

As such it considered that the proposed use is appropriate for the site and the application accords with the relevant parts of policies DM1 and G9 of the adopted Core Strategy and the NPPF.

Highways, Access and Parking

Policy T2 of the Core Strategy acknowledges that development that offers greater access for all forms of travel will assist the borough's continuous improvement to becoming more sustainable, healthier, greener and prosperous. Development and infrastructure proposal are required to satisfy the Council's accessibility hierarchy and in all circumstances, the safety, accessibility and amenity of those who live or have business in the area will have priority, while providing reliable journey times for those travelling through.

Paragraphs 108 and 109 of the NPPF require that safe and suitable access to a site can be achieved for all users and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts of the road network would be severe.

The proposed use of the unit as a nightclub will not amount to a significant intensification when compared to the previous usage. The development is located within Middleton Town Centre which is well served by public transport and there is ample parking located across the road from the application site. Given the town centre location, single trip generation is unlikely, with users of the centre likely to utilise additional local amenities. The Council's Highways Officer is satisfied that the change of use can be easily accommodated for a Highways perspective given the town centre location.

Whilst no comments have been received from the Council's Taxi Licencing team the proposal complies with policy T2 and given the town centre location, the proposed development is appropriately placed to accommodate this form of transport given the late night nature of the intended use.

The proposal is therefore considered to meet the requirements of Policy T2 of the Core Strategy and the National Planning Policy Framework.

RECOMMENDATION

GRANT planning permission subject to the following conditions:

- 1 The development must be begun not later than three years beginning with the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be fully implemented in accordance with the approved plans and specifications, which are referenced as follows

Block Plan

5MAR_PRO1, Proposed Basement and Second Floor Plan

5MAR_PROFIRSTFLOOR, Proposed First Floor Plan

5MAR_PROGROUNDFLOOR, Proposed Ground Floor Plan

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the adopted Core Strategy and the National Planning Policy Framework.

- 3 The use hereby permitted shall not be open to customers, nor shall any services be available or any customers remain on the premises outside the hours of 11.00am to 11.00pm on Monday to Thursday, 11.00am to 02.00am Friday and Saturday and 12.00pm to 10.30pm on Sundays.

Reason: In the interests of the amenity of neighbouring occupiers and to prevent nuisance arising in accordance with Policies G9 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

- 4 The permitted use of the premises as a nightclub shall not take place other than within the Ground and First floors of the building as identified on the approved plans. For the avoidance of doubt there shall be no access to the public to the basement and second floor.

Reason: In the interests of the amenity of neighbouring occupiers and to prevent nuisance arising in accordance with Policies G9 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.