



Applicants:

Ablethird Ltd.

Application No:

09/0114/COUWNN

Date Registered:

16/09/2009

Expiry Date:

11/11/2009

Ward: Castle

# Northampton UDA Planning Committee Paper

Report by Director of Planning and Development

Date of Committee Meeting: Tuesday, 17<sup>th</sup> November 2009

Agenda Item: 7

Description: Change of use to an adult amusement centre

Address: Rear of 31-33 Abington Street, Northampton, NN1 2AW

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## 1. Recommendation

- 1.1. The application should be **REFUSED** for the following reasons:
- 1.2. The proposed development would encourage the undue concentration of adult leisure uses within the retail core of the town centre in non-compliance with PPS6: Planning for Town Centres and Policy R5 of the Northampton Local Plan (1997)
- 1.3. The proposed development would reduce the opportunity to bring a retail use back to a prominent unit within a designated primary shopping frontage on Abington Street in non-compliance with PPS6: Planning for Town Centres and Policies R5 and R6 of the Northampton Local Plan (1997)
- 1.4. The proposed development would introduce a front window display that would be expected to offer limited visual interest to the detriment of an attractive shopping environment in non-compliance with PPS6: Planning for Town Centres and with Policy R5 of the Northampton Local Plan.

## **2. Description of Site**

- 2.1 The site was occupied by a bank (Use Class A2) from 1991 until 2007 when it was vacated by its long term occupier (The Woolwich). Apart from some temporary retail activities, the premises have lain vacant since 2007.
- 2.2 The site offers one of the most prominent commercial positions in the town centre and is positioned within a primary shopping frontage (Frontage P02) as designated by the Northampton Local Plan (1997). It sits adjacent to an important node where the town's principal shopping centre (The Grosvenor Centre) is accessed from Abington Street. There is therefore a particularly high pedestrian footfall in this location.
- 2.3 The building itself is 3no. stories in height, although this application relates purely to the ground floor area without access being made available to the upper floors from within the newly proposed unit. It is not clear how the upper floors are presently used, office or storage space appears likely.

## **3. Description of Proposal**

- 3.1 The proposal involves the change of use of what constitutes approximately one half of a vacant bank (Use Class A2) to an adult amusement centre (Sui Generis). This would involve the sub-division of the existing property (31-33 Abington Street) to create a new single unit to the rear with its own dedicated access- this unit is the subject of this application. The remaining unit would remain vacant and would retain an A2 Use Class. The opening hours are proposed to be 0900 to 2300 on all days.

## **4. Policy Considerations**

### **4.1 WNDC Purpose:**

Under S136(1) of the Local Government Planning and Land Act 1980, WNDC as an Urban Development Corporation has a statutory "objective" to deliver the regeneration of the area. The Secretary of State has determined that WNDC should have development control powers for certain types of development in order to carry out its objective. The proposal is consistent with the Corporation's objectives.

## 4.2 National Policy:

PPS6: Planning for Town Centres

## 4.3 Development Plan:

East Midlands Regional Plan (2009): Policy 2

NBC Local Plan (1997): Policies E19, R5, R6

WNDC Planning Principles (2009): Set out in this document are WNDC's three corporate objectives: 1. To deliver development and infrastructure that enables regeneration and growth in Northampton, Daventry and Towcester; 2. To ensure that new development is supported by appropriate jobs, infrastructure and town centre regeneration; 3. To ensure that new development meets the Government's design quality and environmental standards and is integrated into existing communities.

NBC Emerging Central Area Action Plan (2009)

## 5. Representations

NBC Development Control: Objection, the proposal in this location will reduce the opportunity to bring back retail use to a significant unit in Abington Street, contrary to the advice in PPS6: Planning for Town Centres and saved Policies R5 and R6 of the Northampton Local Plan.

NBC Town Centre Manager: No comments received

NBC Environmental Health: No observations.

NCC Sustainable Transport: No objection or comments

Northamptonshire Police: No comments received.

ClIr Ifty Choudary: No comments received

ClIr Penny Flavell: No comments received

## 6. Notifications and Responses

6.1 Neighbour notification letters were sent out to close proximity neighbours and a site notice was erected adjacent to the site. 3no. independent objections were received and can be summarised as follows:

- The proposed extension and redevelopment of the Grosvenor Centre is critical to the long term success of the town centre and should sit alongside the protection of primary shopping frontages. This proposed change of use would undermine these long term goals at a key entrance to the Grosvenor Centre.
- The proposals are contrary to Policy R5 of the Northampton Local Plan, which states that the change of use from Retail will only be granted if the proposal is appropriate to the premises and locality, will not lead to an undue concentration of such uses.
- No marketing information has been supplied with the application to show that there has been no interest from A1 retailers.
- The application would be contrary to PPS6, which suggests that authorities should consider the changes in attractiveness and character of centres that may occur as a result of proposals.
- Even though the proposals relate to the rear area of the site, the unit would still be highly visible in a prominent location.
- An inferior frontage would have a negative impact upon the attractiveness of the town centre.
- Concerns about the impact upon the amenity of neighbouring properties, there would be potential noise and disruption at late hours.
- The imposition of an Amusement Centre would decrease the potential for A1 use to be included within a primary shopping frontage, which is contrary to Policy R6.
- The emerging Central Area Action Plan comments upon the need to attract high quality shops to improve its appeal to the wider population.

## 7. Site History

09/0107/COUWNN Change of use of ground floor of Number 33 only from a Bank (Use Class A2) to a Bingo Hall (Use Class D2) and the formation of a new access door on to Abington Street (Undetermined)

APP/M9570/A/08/2086758: appealing decision 08/0156/COUWNN (Appeal dismissed)

08/0156/COUWNN Change of use from Building Society (A2) to Adult Gaming Centre (Sui Generis) (Refused)

N/2003/1546 Replacement of existing façade and construction of new mansard roof (Approved subject to conditions)

N/2003/0916 Replacement of existing glazed shop fronts to bank including revised entrance door location with new framed glass shop fronts (Approved subject to conditions)

N/2003/0860 Fascia sign and projecting sign (Approved subject to conditions)

N/2001/1351 Proposed protection of an existing fire escape route by the extension of existing railings and the fitting of additional gates (Approved subject to conditions)

N/2001/935 Installation of second external ATM (Approved subject to conditions)

N/2001/94 New automatic door to main entrance (Approved subject to conditions)

N/2000/1226 Erection of 3no. illuminated box fascia signs (Approved subject to conditions)

## 8. Considerations

### Planning Appeal Decision, Principle, Marketing, Design & Access, Noise & Amenity

#### Planning Appeal Decision

- 8.1 There has been a recent planning appeal at 31-33 Abington Street, which incorporates the application site. The appeal decision (APP/M9570/A/08/2086758) was made on 22/01/2009 and related to the proposed change of use of the property to an adult gaming centre. This is an important material planning consideration, particularly given that the

main issue covered by the appeal was that of the effect of the proposed non-retail use on a primary retail area in terms of the vitality and viability of the town centre. The inspector concluded that the proposed use of the property would be unacceptable. It would conflict with Policies R5 and R6 of the Northampton Local Plan and the emerging objectives for the regeneration of the town centre. It would have an adverse effect on a primary retail area both in terms of the vitality and viability of the town centre and its visual impact.

## **Principle**

- 8.2 A number of the consultation responses that have been received have suggested that the application fails to comply with Policies R5 and R6 of the Northampton Local Plan. Policy R5 provides that planning permission will be granted for change of use from a shop (Use Class A1) in the town centre where certain criteria are satisfied (e.g. not an undue concentration of such uses). Policy R6 states that within designated primary shopping frontages (such as where the application site is positioned) planning permission will only be granted for the change of use from a shop where retail occupancy does not fall below 90% within that particular frontage and the change of use would not result in two or more adjoining premises being used other than as a shop.
- 8.3 Due to the application site falling within Use Class A2 it could be debated that Policies R5 and R6 are not directly applicable to this particular proposal as an A1 shop unit is not technically being lost. However, the previous appeal decision (APP/M9570/A/08/2086758 dated 22/01/2009) at 31-33 Abington Street relating to a change of use from a bank (Use Class A2) to an adult gaming centre (Sui Generis) adds clarity to the situation. The inspector opined that, as the marketing option remains open to revert to a Class A1 use (from an A2 use) without needing planning permission, it is not inappropriate to have regard to Policies R5 and R6 in consideration of the appeal.
- 8.4 In accordance with Policy R5 of the Local Plan, it is important to consider whether the appearance and characteristics of the proposed use would be appropriate to the premises and locality and would not lead to an undue concentration of such uses. Policy R5 relates to the guidance contained within PPS6: Planning for Town Centres, where a diversity of uses in centres is acknowledged to make an important contribution to their vitality and viability.

- 8.5 There are a couple of similar amusement centre / arcade uses operating within primary shopping frontages in the vicinity: most prominently immediately opposite the site at 36 Abington Street. The same property also has another frontage on to a side street (Fish Street) to the rear, which is designated as a secondary shopping frontage. A little further west towards Market Square is located another amusement centre at 7 Abington Street. In summary, there is currently approximately 20m of designated shopping frontage occupied by amusement centres within close proximity of the application site. It is therefore considered that the proposals would lead to an undue concentration of similar uses within the retail core of Northampton town centre in non-compliance with Policy R5 of the Local Plan.
- 8.6 There are clearly concerns associated with the appearance of the proposed use. The amusement centre uses that are positioned in close proximity to the application site exhibit frontages containing only festive decorations to supply visual interest. The views into these premises are severely limited by various screening and blinds. As noted in the previous appeal decision (January 2009) at the site, the lack of inward views is assumed to be linked to the requirements to comply with the provisions of the Gambling Act. Notwithstanding the fact that the applicant has stated that similar shop front arrangements have been accepted for their other venues elsewhere in Northampton, it is considered that typical A2 frontages (i.e. belonging to banks, estate agents, etc) can offer more visual interest to shoppers; the prominence of this particular site adds weight to the stance that a licensed bingo hall shall not offer a frontage containing acceptable activity and interest in non-compliance with Policy R5 of the Northampton Local Plan.
- 8.7 In accordance with Policy R6 of the Local Plan, the percentage of the relevant shop frontage occupied by non-shop use should be considered. Within primary shopping frontages the policy dictates that the percentage figure should not diminish significantly below 90%. At present this particular frontage (P02) exhibits only approximately 70% shop frontage. The entirety of the non-shop frontage is contained within the current vacant unit at 31-33 Abington Street.
- 8.8 It is noted that – because of the proposed splitting of 31-33 Abington Street into 2no. separate units – only approximately 8m of primary shopping frontage would be utilised by these proposals, which translates to approximately 8% of the total length of frontage P02.

Even so, this figure translates to the majority of the total 10% allowance afforded to non-shop uses indicated by Policy R6. It is therefore not an insignificant amount of frontage when considering the prominence of the site at a key pedestrian node at the heart of the town. In fact, this particular stretch of frontage adjoins the actual entrance to the Grosvenor Centre and it is difficult to imagine a much more prominent 8m stretch of shop front within the town.

8.9 It should also be noted that there exists an emerging Central Area Action Plan, which will eventually form the key policy document leading development decisions in the centre of Northampton. This document acknowledges the importance of the proposed redevelopment of the Grosvenor Centre in terms of the supply and quality of retail development in the town. Granting planning permission for a further amusement centre at this site would not accord with the objectives of this emerging document, which is orientated towards encouraging the regeneration of the town centre as a retail centre.

## **Marketing**

8.10 An issue that has been highlighted via the consultation process relates to the effective marketing of the site for A1 retail purposes. It has been questioned whether the premise has been actively and effectively advertised for prospective retail tenants during its lengthy period of vacancy. This question is particularly prevalent when you consider that the property was acquired by the applicants not long after it became vacant back in 2007. An agent for the applicant has confirmed that the premises have not been marketed since their acquisition, although this agent has also pointed out that the property only became available because of a failure by the previous owner to generate interest in the site from a suitable prospective retailer or other purchaser. Notwithstanding this point, the application site has remained vacant for a lengthy period of time and this situation can be attributed – at least in part – to the actions of the applicant.

8.11 Although Policies R5 and R6 of the Northampton Local Plan make no reference to any requirement for the marketing of properties for A1 retail use, it is considered that this is still a material consideration. The previous appeal decision at the site (APP/M9570/A/08/2086758) made reference to the lack of evidence of marketing that had been supplied with the appeal. This situation remains unchanged in respect of this new application for a non-A1 use at the same site. If the applicant was able to provide

evidence that active marketing of the property had occurred for an extended period of time without generating interest from prospective retail operators there would exist the potential to look more favourably upon the merits of the application. Vacant units offer nothing in the way of vitality to town centres. But in this instance no evidence has been supplied to suggest that the unit in question is not an attractive proposition for potential retail operators.

8.12 Furthermore, the proposed sectioning of the existing unit (31-33 Abington Street) would be expected to decrease the marketability of the remaining unit. This A2 unit would be significantly reduced in size to approximately 50 sq m from approximately 150 sq m, which would restrict the number of possible operators to the potential detriment of the vitality and viability of the town centre.

### **Design & Access**

8.13 No alterations are proposed to the external appearance of the building. 2no. existing access points are to be maintained while the property is proposed to be sectioned internally.

### **Noise & Amenity**

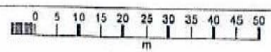
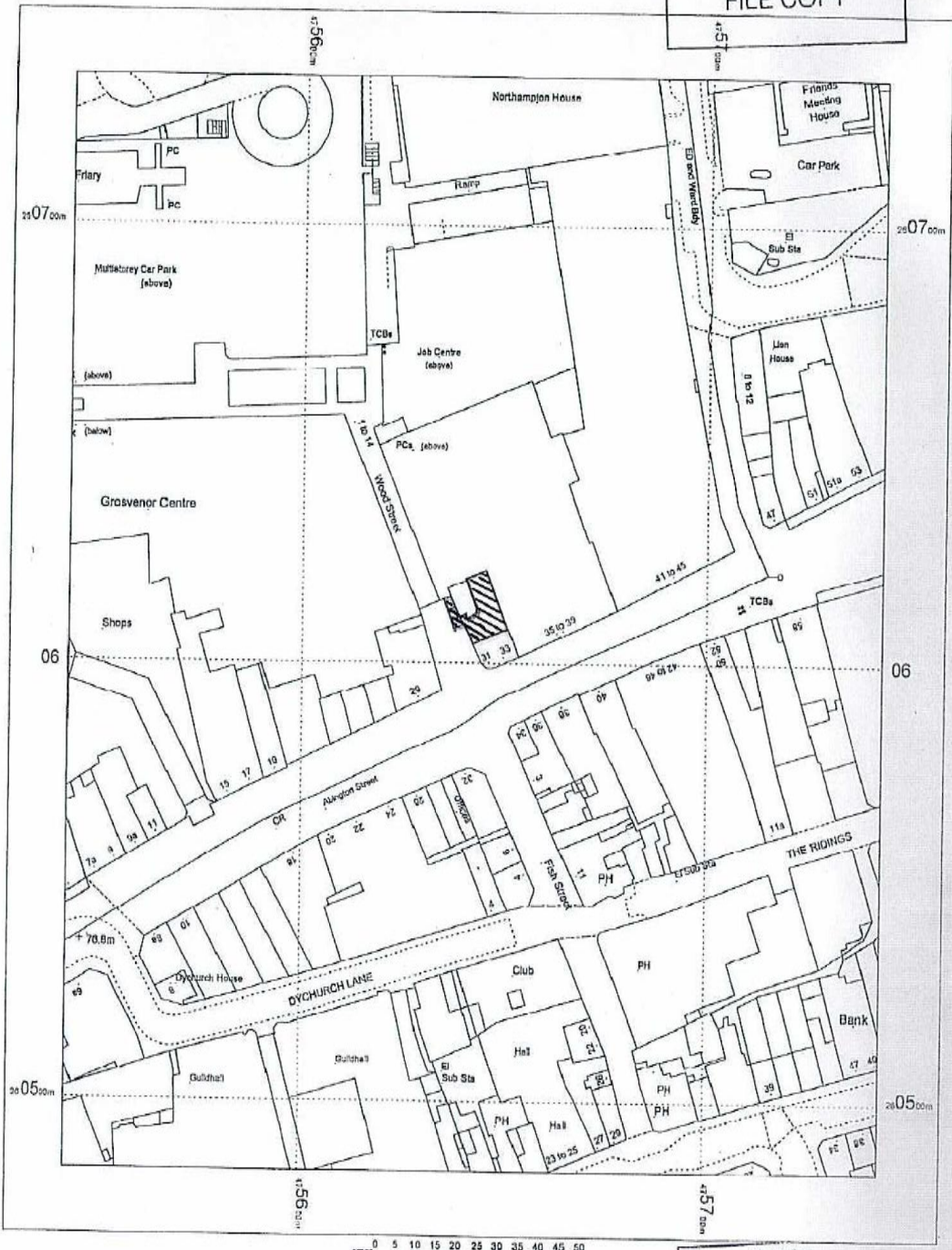
8.14 The proposals involve opening hours until 11pm at night. This does not appear to be an unreasonably late time given the location of the site in the very heart of the town centre where a number of pubs and restaurants are located nearby. Both NBC Environmental Health and Northants Police were consulted upon the application; NBC detailed no objections while no response was received from the Police.

### **Conclusion**

8.15 The proposed development would encourage the undue concentration of adult amusement centres within the retail core of the town centre and would reduce the opportunity to bring a retail use back to a prominent unit within a designated primary shopping frontage on Abington Street. The proposed front elevation of the unit would be expected to offer limited visual interest to the detriment of an attractive shopping environment. The application fails to comply with the guidance contained within PPS6:

Planning for Town Centres and with Policies R5 and R6 of the Northampton Local Plan. This conclusion is consistent with the recent appeal decision (APP/M9570/A/08/2086758) relating to a proposed adult gaming centre, which was dismissed because of the adverse impacts upon the vitality and viability of the town centre.

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Rear of 31-33 Abington Street  
 Northampton  
 NN1 2AW

OS Mastermap  
 15 September 2009  
 www.centremapslive.com

1:1250 scale print at A4

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