



NORTHAMPTON
BOROUGH COUNCIL

PLANNING COMMITTEE: 27 October 2009
DIRECTORATE: Planning and Regeneration
HEAD OF PLANNING: Susan Bridge

APP: N/2009/0720
Change of use of ground floor number 33 only from a Bank (Class A2) to a Bingo Hall (Class D2) and the formation of a new access door on to Abington Street. (WNDC Consultation) at 33 Abington Street.

and

N/2009/0772
Change of use to amusement centre (WNDC Consultation) at 31 to 33 Abington Street.

WARD: Castle

APPLICANT: Ablethird Ltd
AGENT: Mr Robert Gillard

REFERRED BY: Head of Planning
REASON: Due to significance of proposals

DEPARTURE: No

APPLICATIONS FOR CONSULTATION BY WNDC:

1. RECOMMENDATION

1.1 Objects to both consultations for the following reason:

The proposal for an amusement centre 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.

2. THE PROPOSALS

2.1 The proposals are for two differing parts of 31-33 Abington Street,

formerly the Woolwich Bank on the entrance to the Grosvenor Centre. The existing premises have an identified lawful use for A2 purposes and it is proposed to change this to a bingo hall / amusement centre (please note that these two different descriptions are used for the same type of proposals). The proposed uses are qualified as D2 use in the Use Class Order.

- 2.2 N/2009/0720 – this proposal is for one half of the existing ground floor of the bank unit that would be subdivided along the former delineation of the premises recreating No.33 Abington Street for the purposes of a bingo hall. Opening hours are proposed as 9.00am to 10.30pm Monday to Saturday and 10.00am to 10.00pm Sundays.
- 2.3 N/2009/0772 – this proposal subdivides the unit roughly in two at ground floor level (at right angles to the former proposal) resulting in new premises to the rear and leaving a retail A1/A2 unit to the front facing out onto Abington Street. The rearmost property would be used as a gaming centre in a similar manner to the N/2009/0720 proposal. Opening hours are proposed to be 9.00am to 11.00pm every day.

3. SITE DESCRIPTION

- 3.1 The site of the two applications has been the Woolwich since the early 1990s when it changed from A1 retail use after a 1991 appeal decision. The Woolwich closed in the summer of 2007 and was later acquired by the applicant. It has not been in active use at ground floor level since the Woolwich vacated apart from some temporary retail activities.
- 3.2 The site is one of the most prominent commercial positions in the town centre adjacent to an important node where pedestrians pass in great numbers every day of the week. It is also significant due to its position at the Abington Street entrance to the Grosvenor Centre, the principal shopping mall in the centre of town.
- 3.3 Both sites are contained in the ground floor of a three storey building with what appears to be offices or possibly residential uses on the upper floors accessed via a high security gateway at the side of the premises and directly adjacent to the Grosvenor Centre doors. Nos. 31 and 33 Abington Street have merged at ground floor level into one open-plan retail-type space with fully glazed elevations and a fascia canopy to the street.

4. PLANNING HISTORY

- 4.1 Formerly an A1 retail unit up until the early 1990s, a building society (A2) use was allowed at appeal in application reference 91/0130.

A variety of minor applications for development related to the A2 use were approved up to 2003.

- 4.2 N/2008/0156 – change of use from building society / bank to an adult gaming centre – refused and appeal dismissed 22nd January 2009.
- 4.3 In dismissing the appeal, the Inspector states his concern that the amusement centre use of this building would harm the attractiveness of an important part of the town centre and the cumulative impact on the vibrancy and vitality of the town centre would be detrimental. He notes that the applicant / appellant concedes that the loss of retail would be harmful, but contends there were no serious offers of retail use and the Inspector notes the fact that there is no marketing evidence submitted by the appellant/ applicant demonstrating this.

5. PLANNING POLICY

5.1 Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the East Midlands Regional Plan, the saved policies of the Northamptonshire County Structure Plan and Northampton Local Plan 1997.

5.2 National Policies:

PPS6 – Planning for Town Centres

5.3 East Midlands Regional Plan 2009

Policy 2 – Promoting Better Design

Encourages highway access and parking that improves both safety and the quality of public space, whilst seeking design that reduces crime and the fear of crime.

5.4 Northampton Borough Local Plan

Saved Policy R5 – Town Centre changes of use

Saved Policy R6 – Town Centre primary shopping frontages

5.5 Central Area Action Plan

Emerging document who's vision seeks 'a distinctive retail offer that combines the best in major high street names in Greyfriars (nee Grosvenor) with niche and specialist retail and leisure in Northampton's traditional streets and market'.

6. CONSULTATIONS/REPRESENTATIONS

Internal

6.1 **Environmental Health** – No observations

6.2 **Access Officer** – no objections

6.3 **Town Centre Manager** – Objects – increase in non-retail activity would

harm the vitality and vibrancy of the town centre.

6.4 **Regeneration** – comments awaited.

Neighbours

6.5 No neighbour notifications sent out by NBC, but Legal and General's agents have submitted comments to NBC (via WNDC) as owner of the Grosvenor Centre. They objection to N/2009/0720 – on the grounds of previous planning objections being unaltered, existing and emerging policy and regeneration negotiations, principally those surrounding the Grosvenor Centre, supporting the retail use of town centre units above other uses such as amusements. Concern about the harm of amusement uses to the vitality of the town centre and the future viability of the Grosvenor Centre.

7. APPRAISAL

- 7.1 In determining the 2008 appeal the Inspector identified the main issue as the effect of the proposed non-retail use on a primarily retail area in terms of the vitality and viability of the town centre and its visual impact. A copy of the Inspector's decision notice is appended for information.
- 7.2 Saved Policy R6 of the Northampton Local Plan seeks to retain 90% of the length of primary frontages in the centre as shop uses and to stop two or more non-shop businesses opening next to one another. The Abington Street frontage in question is already well beneath that 90% ratio of shop frontage over other uses and it is material to consider that the present bank use, A2, could be changed to A1 retail use without the benefit express planning consent from WNDC.
- 7.3 To summarise, saved Local Plan policy supports retail use in this location above all other uses.
- 7.4 If saved Local Plan Policy R6 as explained above is overridden, saved Policy R5 states that the loss of a shop or a bank (for example) would be acceptable where the appearance and characteristics would be appropriate to the locality, amongst certain other criteria.
- 7.5 In short, it is considered that maintaining a shop or bank-type of use in this location is important to protect the retail appearance and character of the area. Changing No.33 Abington Street (N/2009/0720) as opposed to both No.31 and No.33 combined in the previous (2008) proposal remains an unacceptable harm to the town centre.
- 7.6 Placing the bingo centre behind the Abington Street frontage in proposal N/2009/0772 is presumably aimed at reducing the impact of the harmful impacts outlined above and repeated by the Planning Inspector in his decision earlier this year, but notwithstanding the applicant's efforts, would still result in an amusement centre frontage at

the right-hand side of the entrance to the Grosvenor Centre, where there is a particularly high footfall area and a highly visible position to members of the public. This is considered unacceptable in terms of impact on the appearance and character of the town centre contrary to saved Local Plan Policy R5.

7.7 Whilst the amount of amusement centre frontage is reduced in these schemes when compared to the refused 2008 proposal and as dismissed by the Inspector, the unacceptably harmful effect remains, as does the conflict with Local Plan Policies R5 and R6, which is underlined by the emerging Central Area Action Plan (CAAP).

7.8 Finally, it is noted that the site freehold has been held by the applicant for almost 18 months and they state that the property has sat empty for 2 years. Without any evidence as part of these applications of active A1 or A2 marketing at any recent time, it can only be concluded that the applicant may be partly responsible for the vacancy situation.

8. CONCLUSION

8.1 It is acknowledged that the primary frontage in this part of the town centre has less than 90% of its length in retail use where saved Policy R6 of the Local Plan seeks to retain at least this amount of retail frontage.

8.2 Both application sites have the potential to be lawfully used for both A2 and A1 retail use. It is considered that these uses should be retained unless the criteria of saved Local Plan Policy R5 are met, not least to strive towards the retail frontage aims of saved Plan Policy R6. One of the criteria of Local Plan Policy R5 that is a prerequisite of losing a shop in the town centre states that the resulting appearance and characteristic of the proposal must be appropriate to the premises and locality. In both of these proposals the amusement centre/ bingo hall will be significantly noticeable in the streetscene and locality and are considered inappropriate to the premises and locality.

8.3 For these reasons the proposal is considered a retrograde step for the vitality and viability of the town centre retail environment and contrary to saved Policies R5 and R6 of the Northampton Local Plan and the guidance of PPS6 Planning for Town Centres.

9. BACKGROUND PAPERS

9.1 None.

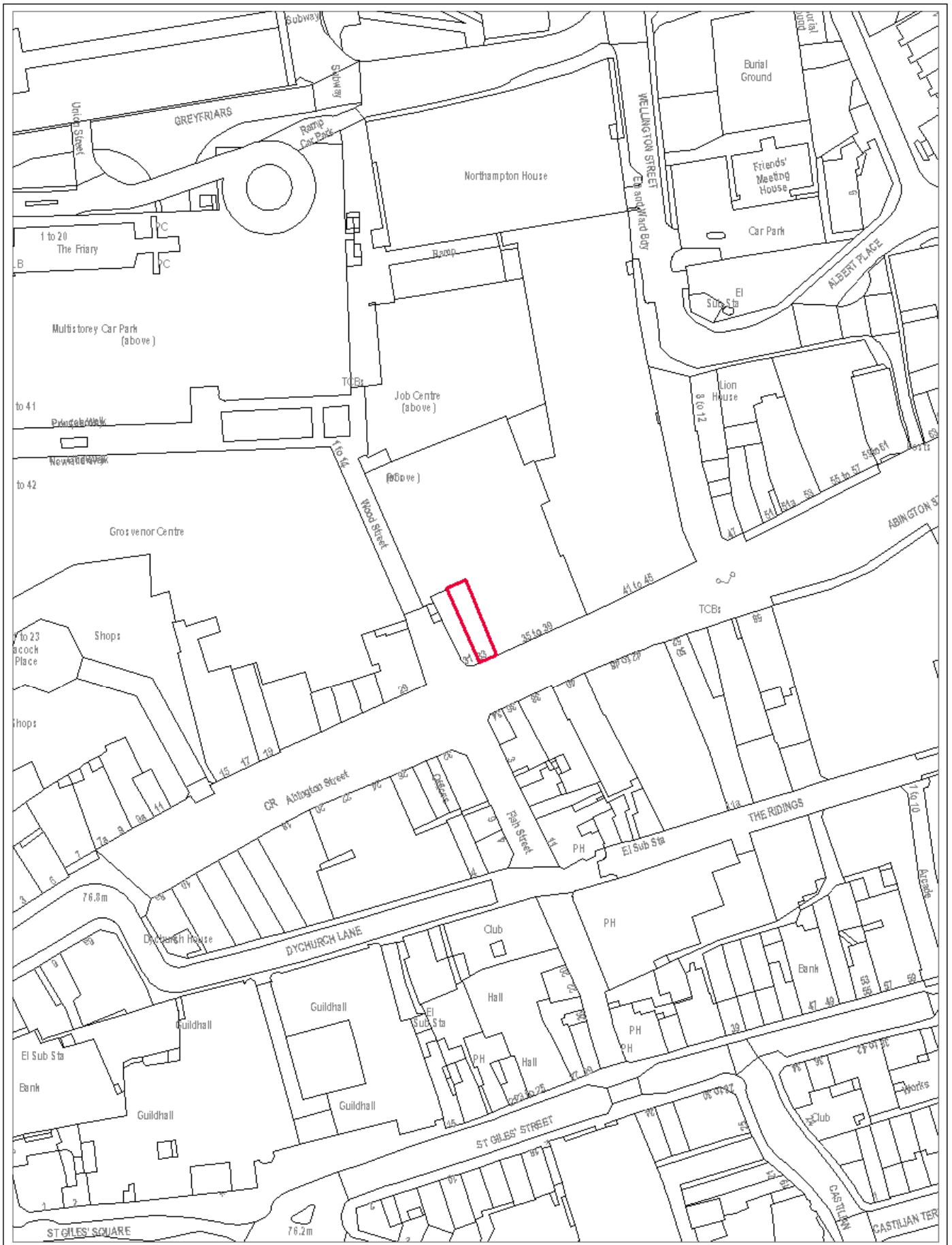
10. LEGAL IMPLICATIONS

10.1 None

11. SUMMARY AND LINKS TO CORPORATE PLAN

11.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.

| | | |
|--|------------------------|--------------|
| Position: | Name/Signature: | Date: |
| Author: | Richard Boyt | 14/10/09 |
| Development Control Manager Agreed: | Gareth Jones | 14/10/09 |



Jim: Jon Martin
 dt: 7th October 2009
 nr: 1:1250
 pl: Planning
 ppt: Location Plan

Title

33 Abington Street

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Appeal Decision

Site visit made on 9 January 2009

by **Martyn Single DipTP MRTPI**

an Inspector appointed by the Secretary of
State for Communities and Local Government

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**Decision date: 22
January 2009**

Appeal Ref: **APP/M9570/A/08/2086758**

31-33 Abington Street, Northampton, NN1 2AW

- 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 Amarjit Mann against the decision of West Northamptonshire Development Corporation.
- The application ref. 08/0156/COUWNN, dated 24 April 2008, was refused by notice dated 4 August 2008.
- The development proposed is change of use from a building society bank to an adult gaming centre (sui generis).

Decision

1. I dismiss the appeal.

Main issue

2. The main issue in this appeal is the effect of the proposed non-retail use on a primary retail area in terms of the vitality and viability of the town centre and its visual impact.

Planning Policy

3. The development plan includes the Northamptonshire County Structure Plan adopted in 2001 and the Northampton Local Plan 1993-2006, adopted in 1997. Policies R5 and R6 of the latter have been saved by direction of the Secretary of State for Communities and Local Government and are relevant to this appeal. Policy R5 provides that planning permission will be granted for change of use from a Class A1 shop in the town centre where certain criteria are satisfied, one of which is that the appearance and characteristics of the use would be appropriate to the premises and locality.
 4. Although the appeal property has been previously used for a purpose within Class A2 (financial and professional services) there is a right under Part 3 Class D of Schedule 2 to The Town and Country Planning (General Permitted Development) Order 1995 to change to Class A1 with deemed planning permission. It is not inappropriate, therefore, to have regard to these criteria in my consideration of this appeal, as the marketing option remains open to revert to a Class A1 use without needing planning permission from the Corporation. I consider this to be pertinent having regard to the strategic objectives of the emerging Central Area Action Plan for the regeneration of the town centre, one of which is to encourage shoppers to meet their comparison
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needs more locally. To do so there would continue to be a need to retain a portfolio of available Class A1 premises in the primary shopping frontages.

5. Policy R6 includes the appeal property within such a frontage (P02) wherein retail uses should not fall below 90% frontage length and there should not be two or more premises in such uses. P02 differs from other primary frontages, consisting of only four premises, two of these being large 'department stores'. It does include the return frontage of nos. 31-33 Abington Street into Wood Street which leads into the covered Grosvenor Shopping Centre.
6. I have also had regard in my decision to national planning policy in Planning Policy Statement 6 *Planning for Town Centres* (PPS6).

Reasons

7. The appeal site comprises ground floor corner premises in a highly prominent and important position in the primary shopping area. On the occasion of my lunchtime visit both adjoining streets were very busy with pedestrians, a significant number using the Wood Street entrance to the Grosvenor Shopping Centre alongside the appeal property. Despite the presence of recently vacated premises the town centre appeared relatively vibrant. The property has a frontage to both streets, the submissions indicating that its use for non-retail means that the retail frontage P02 falls significantly below the 90% sought by Policy R6.
8. The appellant has provided extracts from a number of appeal decision letters whereby it has been accepted that such a use is not necessarily inappropriate in a primary retail frontage. However, I believe the position of nos. 31-33 at the entrance to the shopping centre makes this a particularly important location in terms of the attractiveness of the wider town centre for traders and shoppers, and an unsuitable use would cause harm to the centre.
9. The Corporation has expressed concern at the cumulative effect of this type of use in the town centre, a view shared by some of the third parties. Whilst I may have a different view with regard to some premises in the street I share their concern in respect of this particular site because of its specially important position. It is not just, in my view, a matter of the number of such premises. I did see that there are already three similar uses in the street, two operated by Agora. The appellant indicates that the use at no. 36 would cease if permission was granted for the appeal site but there is no formal mechanism within the appeal before me to secure its closure and reversion to Class A1.
10. It has been put to me on behalf of the appellant that the appeal property would have a decorative window display that would be better than other non-retail uses that could occupy the premises without needing permission. This contention is not supported by what I saw of the appellant's other premises. In both nearby premises, views into them are restricted by screens at the back of the window display, I presume to comply with requirements of the Gambling Act. The displays within the windows could not be described as attractive or interesting, one containing just a small number of A4 framed Gambling Act Certificates, the other containing a range of objects associated with gambling such as miniature roulette wheels and fruit machines. There was no suggestion that there would be any element of retailing from the properties.

11. On the other hand I saw a substantial majority of properties, in both Class A1 and A2 use where views into the premises were available from the street. It appeared to me that estate agents and building society windows held more of interest to the shopper in the street scene, contributing to the attractiveness of the town centre as a shopping destination. By contrast the amusement centre frontages were bland, uninviting and uninteresting and in such a prominent position over such a length of frontage would be wholly unacceptable.
12. The applicant's letter dated 24th April 2008 concedes that the loss of a potential retail use would be harmful but that there had been no serious offers for retail use in the unit. However, no evidence of marketing of the property has been provided with the appeal in support of the appellant's case.
13. Having regard to the above factors I conclude that the proposed use of the property would be unacceptable. It would conflict with Policies R5 and R6 of the Northampton Local Plan 1993-2006 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.

Martyn Single

INSPECTOR