

SIDMOUTH TOWN
(Sidmouth)

08/0959/COU

Target Date: 11 June 2008

Applicant: Mr George Symonds

Location: The Dove (Ground Floor) Dove Lane, Sidmouth

Proposal: Change of use of ground floor from public house to amusement centre (adult gaming)

CONSULTATIONS

County Highway Authority

At the time of writing the report no comments had been received

TOWN/PARISH COUNCIL

Sidmouth Town Council recommend refusal of the application and comments are as follows:

PPG6 covers Amusement Centres in Annex D and sets out the Government's policy on the location of amusement centres. Annex D states :-

- Noise and general disturbance, which depend partly upon the kind of amusement proposed and the expected clientele, greatly affect amenity.
- Account should be taken of the likely impact on the neighbourhood of disturbance generated, if for example an amusement centre were to become a focal point for gathering of young people.
- Amusement centres are most appropriately sited in secondary shopping areas, or in areas of mixed commercial development. They are unlikely to be accepted in primary shopping areas, or close to hotels.
- An amusement centre which is likely to affect visual amenity or cause noise or disturbance will normally be out of place, especially in a Conservation Area or other places of special architectural or historic character.

The Town Council consider that all of the above are appropriate in the recommendation for refusal and would add

- The approval of this application will create a threat to Sidmouth's economic environment whose tourism industry depends primarily on image.
- There will be a major impact on the vitality and viability of the Conservation Area.
- There is no proven need - as machines of this type are already sited in Betting Shops and Pubs within the town.
- There will be a possible creation of anti-social behaviour, plus public order issues.
- This application if approved will set an unacceptable precedent.
- Visual amenity will be affected by signage which will obviously be required.
- In light of recent smoking bans a nuisance will be created on very narrow footways and nearby food outlets will be affected.
- The comparison to a former pub cannot be substantiated as a Pub is a 'social' place and this adult centre will not.
- The number of machines has not been identified.

Taking all the above into account the Town Council feels strongly that this application must be refused.

WARD MEMBERS

Chris Gibbings - Objects to the application. In the event my recommendation and that of the planning officer differs, I wish the application to be referred to the Development Control Committee. This application has raised more objections to me as a Councillor than any other. Although I am advised there are few if any legal grounds for objection I believe this should be before the committee and not decided behind closed doors.

In the event that this application comes to Committee, I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

REPRESENTATIONS

At the time of writing the report a total of 67 letters of objection had been received. A summary of objections are as follows:

- Not right, betrayal of Sidmouth
- Do not want to change the face of Sidmouth
- Does not preserve the tranquillity and ambience of Sidmouth
- Amusement Arcades are not in keeping with the Calibre of the town
- Sidmouth has timeless charm which it should retain
- Detrimental to the character of the town
- Noise and disturbance to hotel guests and town residents
- Development will set an unwanted precedent
- Will not enhance the town
- Demean the Unique character of the town
- Will result in a loss of the towns charm
- Deterrent for visitors
- Detrimental to Conservation Area
- Does not promote the right type of tourism for Sidmouth
- Detrimental impact on young people, encouraging debt
- Will damage vitality of town centre
- Create congestion in Dove Lane, dangerous for pedestrians
- Promote sale of drugs and alcohol to minors
- Encourage people to smoke in the street and increased litter problems
- Increase anti social behaviour
- Trashy Tourism
- Negative impact on local economy
- No demonstrable need for amusement arcade

RELEVANT PLANNING HISTORY

Application	Proposal	Decision
07/2471/FUL	Redevelopment of existing public house to form ground floor retail unit with 2no residential flats over and adjacent town house	Approval with conditions

PLANNING POLICIES

Devon Country Structure Plan (2001-2016)

Policy C06 - Quality of New Development
Policy C07 - Historic Settlements and Buildings

East Devon Local Plan (1995-2011)

Policy D1 – Design and Local Distinctiveness
Policy S4 – Development within Built-up Area Boundaries
Policy SH1 - Town Centre Shopping Areas
Policy SH2 – Primary Shopping Frontage
Policy EN11 - Preservation and Enhancement of Conservation Areas

Planning Policy Statements

PPS1 – Delivering Sustainable Development
PPS 6 - Development in Town Centres

SITE LOCATION AND DESCRIPTION

The application site is situated on the corner of Dove Lane and Fore Street and within the designated town centre shopping area. The Fore Street Frontage is designated primary shopping frontage.

The site of this application is an existing public house which is no longer in use. Planning Permission was recently approved (07/2471/FUL) to redevelop the existing public house to form a retail unit with two residential flats over. The upper floors are currently being converted under this permission.

This is an area of mixed use and other commercial and residential properties are located surrounding the site. Carina's night club, a 'sui generis use', is also situated in Dove Lane.

The building has existing small windows which look out into Dove Lane with the main window on the Fore Street Frontage. A photo is attached.

PROPOSED DEVELOPMENT

Full planning permission is sought for the change of use of the ground floor area of the former Dove Public House to an amusement centre (now known as adult gaming), a 'sui generis' use. (i.e. not within any other use class).

The external appearance of the unit is to remain as existing. The applicant also states that the existing window in the Fore Street frontage will be retained with a retail display. The applicant has not shown how many gaming machines are to be installed in the property.

A staff room will be provided at the rear of the unit.

Premises of this kind are required by law to exclude persons under the age of 18. The age restriction needs to be indicated to prospective customers by signage at the entrance and the applicant further states that this shall be reinforced by staff on the premises.

CONSIDERATIONS AND ASSESSMENT

Policy

Paragraph 7.5 of the Local Plan observes that 'Town Centres provide a wide range of services and fulfil a variety of functions that need to be accessible to a large number of people from all sectors of the community. In addition to retail shops, town centres provide...leisure and entertainment facilities...and a diversity of other uses which contribute to vitality and viability... Uses such as leisure and entertainment facilities...all add variety'.

Policy SH1 (Town Centre Shopping Areas) states that proposals for both retail and non-retail uses which would add variety and increase activity will be permitted provided (1) the use would not undermine the shopping character and visual amenity, vitality or viability of the town centre; (2) the amenity interest of occupiers of adjoining properties is not adversely affected by reason of noise, smell or litter; and (3) it would not cause traffic problems.

So far as the first criterion is concerned, it is considered that the proposed use might attract additional visitors to the town centre, who could spend money at other businesses.

The second should be satisfied, provided the agent's description of the proposed business is accurate - there should be no resultant smell or litter and the closed frontage should ensure that any noise is at an acceptable level. It is noted that the upper floors are being converted into flats and there are numerous others nearby. Environmental Health have been consulted on this point. The third criterion seems to be satisfied - car-borne customers would have to use car parks and street parking.

The Fore Street frontage is situated within a Primary Shopping Frontage, to which Policy SH2 relates. However, that Policy opposes the change of use of ground floor retail units, so the Class A3 Food and Drink, the most recent use of the Dove Inn is not applicable in this case, and the change of use is not opposed by Policy SH2.

None of the other shopping policies are applicable. The Recreation chapter deals almost exclusively with outdoor recreation facilities.

In terms of the viability and vitality of nearby shops, the additional custom attracted to the town centre by the amusement centre may well add to its vitality. The amusement centre would be located in what is currently a vacant class A3 food and drink unit and therefore it is considered that it has no adverse implications for the viability of businesses in its vicinity.

Planning Policy Guidance 6 which dealt specifically with the provision for amusement centres has been superseded by PPS6 – Planning for Town Centres, and no longer applies.

Character and Appearance

The building is also situated within a conservation area and Policy EN11 (Preservation and Enhancement of Conservation Areas) states that proposals for the display of advertisements within a conservation area will only be permitted where it would preserve or enhance the appearance and character of the area. The supporting statement says that the centre will have 'low key, shop-like signage not the garish flashing lights of the seaside arcade' (paragraph 2.7): it is important that advertising proposals reflect that claim and that the window dressing and display suggested in paragraph 2.2 are tasteful, but do not result in a 'dead' frontage. In order to ensure that the frontage is not maintained as a blank area of glass, any permission granted should be subject to a condition requiring a window display.

In terms of the amenity or character of Street, it is not considered that the proposed amusement centre would be out of character with the streetscape as the external appearance of the building is to remain the same. It is not considered that an amusement centre would detract from the amenity of the main shopping street nor that refusing the proposal with the intention of having the premises re-used as a shop would have any particular merit in terms of the character or amenity of the area. However, as previously mentioned it is considered that a condition should require a window display to be maintained.

Environmental Health

These types of uses often attract complaints relating to the breakout noise from the machines themselves - music of poor sound quality, loudspeaker noise etc. Some operators are prone to turning the volume up on these to create an atmosphere and attract 'off - street' business.

The applicant states in paragraph 3.5 that no noise disturbance would be caused by customers coming to and from the premises and internally generated noise is limited and could be contained within the unit.

Environment Health Officers consider that a condition needs to be applied which stipulates that recorded or broadcast noise generated as part of the activity is not audible outside the premises. Further to this no objections are raised to the proposal.

Economic Development Officer

At the time of writing the report no comments have been received.

Letters of Representation

67 letters of objection have been received regarding the proposed change of use and a summary of objections can be seen above. It can be seen that many of the objections received are moral objections to amusement arcades and it must be stressed that these objections are not planning considerations which can be taken into account. As a Planning Authority, it would be inappropriate to take a moral standpoint and the proposal must be assessed in accordance with the Local Development Plan Policy and relevant Planning Guidance.

Current issues raised are as follows:

- 1) *Clients attracted by the proposed business would have a detrimental affect on other businesses and the economic viability of Sidmouth town centre.*

The applicant has provided information with the application stating that it is the intention of the operators to enforce an age policy which would only allow over 18 year olds to use the amusement centre. The gaming machines would be gambling machines and it is not intended to operate video games or children's rides or other such machines. Thus, it is not the operator's intention to attract teenagers. However, in any case, it would be unreasonable to refuse planning permission on the grounds that users of the amusement centre may commit crimes in future.

- 2) *The proposal would result in an increase in crime in the town centre.*

This opinion is speculation on the part of the objectors and as discussed above would not be a planning reason for refusing permission.

3) The proposal would result in an increase in anti social behaviour

Similarly to the foregoing, it would not be a valid planning reason to refuse any proposal on the grounds that it may give rise to anti social behaviour or criminal activities in future. It should be noted that the previous use was as a public house.

4) The application site could be more beneficially used as an A1 retail use in the town centre.

Whilst it is understood that objectors believe that this type of use is not one which is favoured in Sidmouth, this type of use is provided for in the Local Plan in that the proposed change from an A3 food and drink outlet to amusement centre is acceptable in principle. The public house unit is currently vacant and the external appearance shall remain as existing and therefore the proposal would not be replacing an existing shop. A further consideration is that there is no reason why the users who are attracted to the amusement centre would not shop at other business premises as they make their way to or from the proposed amusement centre.

5) The proposal will create a noise nuisance

As discussed above it is possible that this types of use could attract complaints relating to the breakout noise from the machines themselves. However, the applicant has stated internally generated noise is limited and could be contained within the unit. It is considered that this could be controlled by condition.

6) The proposal will be detrimental to the character and appearance of the Conservation Area

The external appearance of the building is to remain as existing and therefore it is difficult to argue that the proposals would have an adverse detrimental impact on the character and appearance of the Conservation Area.

Sidmouth Town Council

Paragraph 7.11 of the Local Plan makes provision for details on amusement centres within the Primary Shopping Area and recognises that Amusement centres provide a popular form of entertainment for tourists and residents, but can also cause noise and disturbance in a locality and increase pedestrian movements. The details from the town council refer to Planning Policy Guidance 6. This document is no longer in use and has been replaced with Planning Policy Statement 6 – Development in Town Centres. It is considered that the proposal satisfies the requirements of Local Plan Policy SH1 (Town Centre Shopping Areas).

CONCLUSIONS

With specific regard to the policies as laid out in the East Devon Local Plan it is considered that the change of use to amusement centre, located in what is currently a vacant class A3 food and drink unit is acceptable. The external appearance of the building shall remain as existing and the retail display in the main Fore Street window controlled by condition. It is therefore considered that the proposed development would have no adverse implications for the viability of businesses in its vicinity or have any adverse detrimental impact on the character and appearance of the Conservation Area. The area is one of mixed use, combining retail use with residential, alongside the existing Carina's night club within Dove Lane. The proposed use is not considered out of context within this area. The concerns of local business owners and residents are noted with regard to noise nuisance and disturbance, however, speculation with regard to anti social

behaviour is not a valid planning reason to refuse the proposal and noise generated as part of the proposed use shall be conditioned preventing it being audible outside of the premises.

It is considered that the proposal is in accordance with the East Devon District Council Local Plan Policy.

RECOMMENDATION

APPROVE subject to the following conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason – to comply with 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 premises shall be solely for the planning of amusements with prize machines and ancillary retail sales and catering. No games of a sessional character shall be played on the premises and no amusement only machines shall be installed.
(Reason – In the interests of preventing excessive noise and disturbance from the premises.)
3. Prior to the commencement of the use hereby permitted, details of a sound insulation scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of use of the ground floor of the premises known as The Dove, as shown on the accompanying site plan, as an amusement centre and shall be permanently retained thereafter.
(Reason – To protect the amenity of residential occupiers.)
4. A retail display shall be maintained at all times in the shop window facing Fore Street.
(Reason – In the interests of the safeguarding the retail character of the area, which forms part of the designated Town Centre Shopping Area.)
5. Recorded or broadcast noise generated as part of the activity shall not be audible outside the premises
(Reason – To protect the amenity of residential occupiers.)
6. The use hereby permitted shall only take place between the hours of 0900 and 2200 Mondays to Saturdays and 0900 and 1800 hours on Sundays and Bank Holidays.
(Reason – In the interests of the character and appearance of the area, which is designated a conservation area, and to protect the amenities of local residents.)

Reasons for approval

- 1) The proposal complies with the Devon Structure Plan 2001-2016 Policies C06 and C07.
- 2) The proposal complies with the adopted East Devon Local 1995-2011 Policies D1, S4, SH1, SH2 and EN11.
- 3) The proposal does not affect the privacy or amenity of neighbouring properties
- 4) The use is compatible with the town centre policies within the Local Plan.
- 5) The proposal does not harm the character and appearance of the Conservation Area
- 6) The proposal would not generate a level of noise that would unreasonably effect the amenity of neighbouring properties

List of Background Papers

Application file, consultations and policy documents referred to in the report.