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Mr E Bonthron
Gravesham Council
Planning Services
Windmill Street
GRAVESEND
DA12 1AU

8 July 2025

By email only: planning.services@gravesham.gov.uk

Dear Mr Bonthron

Use of Premises as Adult Gaming Centre (Sui Generis) with 8 Sports Betting Terminals (Sui Generis) 20250580
Proposed New Shopfront 20250583
22-23 New Road Gravesham DA11 0AA

We are retained by clients who occupy premises close to the above property and who wish to strongly object to the proposed installation of 8 sports betting terminals into part of the application site.

Turning first to the matter of the existing consent ref 20220456 which granted permission for change of use from retail (Class Ea) to an adult gaming centre (sui generis) on 29 July 2022. The applicant confirms that the application site is still vacant and thus the consent has not been implemented. Condition (1) imposed on the consent confirms that the permission is to be implemented within three years i.e. before 29 July 2025.

In order to implement the consent not only would development have to have started at the site, but the pre commencement conditions (4) and (5) would have needed to have been approved by 29 July 2029. The council's online planning portal contains no record of the discharge of condition (4), which had to be completed by 29 October 2022, and whilst the current application includes a Noise Impact Assessment which is stated to relate to condition (5), this will not have been approved before the 2022 consent expires. We respectfully suggest that the 2022 consent, upon which the applicant is relying in making the current application, cannot therefore be used as the basis for the current proposal. We would also note that condition (3) confirms that the application site shall only be used as an adult gaming centre, "*and for no other purpose*", something we will return to later in this objection.

We now turn to the key point of our objection. As you will be aware, under s55 of the Town & Country Planning Act 1990 planning permission is required for the carrying out of any development of land. Development is considered as being one of two types: firstly, the carrying out of building and / or development works and secondly, the "making of a material change of use of any buildings or land".

The starting point in assessing the proposal is therefore to consider if the application constitutes development, meaning planning permission would be required. The Use Classes Order confirms that "Amusement Arcades or Amusement Centres" are sui generis, being a use which is not included in the Use Classes Order 1987 and subsequent amendments to the same. Planning permission is required when a change is sought between one sui generis use and another.

Betting office uses became sui generis in 2015 and thus planning permission would be needed for a change of use between an gaming centre and betting office due to both being sui generis and there being no permitted development rights which would facilitate the same.

The proposal seeks consent to install 8 sports betting terminals in a designated area within the proposed gaming centre. The LPA as decision-maker will therefore need to assess if the proposed change is "material" i.e. is it significant enough to change the nature of the primary use. There is no statutory definition of a "material change of use" however it is linked to the significance of a change and the resulting impact on the use of the land and buildings. It is a matter of fact and degree, and each proposal should be assessed on its individual merits.

The applicant has sought to argue that the proposed new use is ancillary to the primary gaming centre use, meaning it is a secondary use which does not supercede the primary use either in terms of the nature or quantity of activity generated.

We strongly disagree with their assessment and would suggest that the question for the LPA is whether the introduction of the sports betting terminals area represents a material change of use such that planning permission would be required, which we believe it does. The proposal clearly seeks to create a new and separate planning unit *for betting office use* and for which we believe full planning permission is required.

Betting office uses involving machines which seek to allow gambling on live sporting events do not fall within the machines which are permitted in an adult gaming centre. Such uses have long sought to represent their offer as low stakes gaming with no live sporting interaction, indeed the marketing and promotional material for gaming centres uses stresses that their use is separate to a betting office use and that they work hard to address these misconceptions. This point was referenced and supported in the delegated report in respect of the 2022 consent for the change of use to a gaming centre where the applicant confirmed that *"AGCs and other uses such as betting shops are completely different uses"*. The Inspector in one of the appeals put forward in the Planning Statement to support the change of use (APP/J3015/W/18/3212670) agreed, stating that *"the uses are clearly materially different"*. We therefore respectfully suggest the proposal represents a material change of use to part of the gaming centre as a betting office.

In seeking consent to install the sports betting terminals it is clear however that the applicant wishes to create a betting office "through the back door"; the betting machines will completely change the nature of the low stakes offer of the gaming centre where it is claimed people visit to spend their spare change and enjoy a game of bingo, to an additional betting office in the town centre.

The applicant states in their supporting letter that there will be no alterations to the exterior of the premises. We note however that the Council's Statement of Gambling Licencing Policy requires that entrances and exits to parts of a building which are covered by separate gambling licences, as will be the case with the application property, *"should be "separate and identifiable"* and it should not be possible to access the premises without going through another licenced premises.

The ground floor layout plan for the proposal clearly shows that the new betting shop area will share an access with the existing adult gaming centre. Toilet and refreshment facilities will also be shared. Whilst it will be a matter for the Licensing Committee to determine if this is acceptable, and we suggest this is very unlikely to be the case, the applicant has been at the least disingenuous to suggest that no external changes are required. The linked shopfront application ref 20250583 includes proposed elevations for the unit but these clearly show a joint entrance is proposed by the applicant.

The applicant has submitted similar applications for its many premises throughout England, and we believe allowing the creation of a further betting office within this type of use will establish a dangerous precedent, potentially allowing the creation of hundreds of new betting offices throughout the country.

A similar proposal was submitted under application 10/23/0928 at 5 New Market Street in Blackburn which also related to an adult gaming centre located in a designated primary frontage. The case officer in that instance determined that the proposal to install sports betting terminals did indeed amount to a material change of use, and that the introduction of a further betting use in the primary frontage would cause harm to the same.

A further application under 23/01373/FUL for premises at 34 George Street in Luton also sought consent for the siting of 4 sports betting terminals in an existing adult gaming centre. Consent was again refused, with the officer confirming that the proposal constituted a material change of use and that the use could not comply with the relevant licencing requirements as amenities and the entrance would be shared. Copies of both officer's reports are included with this objection for ease of reference.

Finally, we turn to policy considerations which are relevant to the proposed change of use to betting office in part of the unit. The application unit is located in the primary shopping frontage for Gravesend town centre and proposals for change of use such as this are therefore subject to assessment against policy CS08 of the adopted Core Strategy and Saved Policies S3 and S4 of the Local Plan First Review.

The potential for a sui generis use was considered in detail by the case officer in the delegated report for application 20220456 and the following observations are suggested to be relevant to the current proposal:

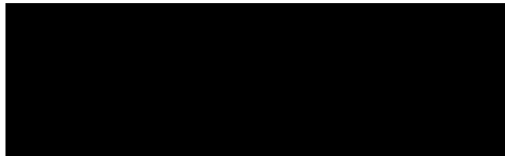
- 20 units, comprising 27.8% of the total, in the New Road / King Street frontages are already in sui generis use. If the current proposal is approved, this will increase to 29.2% if consent were to be granted, a figure which the case officer confirmed could be considered to be an over-concentration of uses within a small area.
- 5 units are already in betting office and adult gaming centre use, a figure which will further increase to 6, being 8.3% of the total if consent is granted. This needs to be viewed in the context of the number of retail units in the primary frontage, which equates to just 27.7% of the total. We note all three key policies seek to protect and enhance centres by safeguarding the retail character and function and by resisting development which would adversely affect their vitality and viability. It is clear this proposal would contribute to none of those aims and cannot therefore satisfy the relevant policies.

- The officer concludes that *“the LPA do consider that the provision of additional uses would be an over-concentration to the detriment of the retail function, viability and vitality, negatively tipping the balance and would not support any future applications for such a change of use within this proximity”*.

The proposal seeks to introduce another betting office into the primary shopping frontage, and as outlined above, this cannot be supported by the adopted policies. The proposal should therefore be refused, as being a material change of use and contrary to the provisions of the development plan, and we look forward to hearing this outcome in due course.

We reserve the right to comment further on any additional information which the applicant puts forward.

Yours sincerely



**Altine Elias BSc (Hons) MRICS
PARTNER**

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Our ref: JAE/C12

Appendix I

Delegated Report

5 New Market Street Blackburn BB1 7DR

Application ref 10/23/0928

DELEGATED DECISION OFFICER REPORT

Proposed development: Proposed part change of use from adult gaming centre (sui generis) to betting office (sui generis) with siting of 6 No. sports betting terminals

Site address: 5 New Market Street, Blackburn, BB1 7DR

Applicant: Luxury Leisure

Application number: 10/23/0928

Case officer: Jamie Edwards - Planning Officer

Recommendation: REFUSE

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), and the adopted policies of the Blackburn With Darwen Borough's Core Strategy and Local Plan Part 2 "Site Allocations and Development Management Policies", together with other relevant material planning considerations. The policies of the Core Strategy and Local Plan Part 2 that have been used to assess this application are considered to be in accordance with the NPPF, and as such are material planning considerations.

The planning service, in assessing the planning application, has had due regard to the provisions of the Human Rights Act. It is an inherent part of the decision making process to assess the effects that a proposal will have on individuals, and weigh these against the wider public interest in determining whether development should be granted planning permission. In carrying out this balancing exercise, the planning service is satisfied that it has acted proportionately.

SITE DESCRIPTION

The application site relates to an existing adult gaming centre (AGC) (sui generis) known as 'Admiral Slots / Casino' situated on the southern side of New Market Street, within Blackburn Town Centre.

The proposal building lies within the defined Primary Shopping Area (PSA) of Blackburn Town Centre (BTC), as well as Secondary Shopping Frontage (SSF), the Northgate Quarter (NQ) and Northgate Conservation Area (NCA), as identified by the Local Plan Part 2 Adopted Policies Map.

PROPOSAL

Planning permission is sought for a proposed part change of use from the adult gaming centre to form a designated and distinct area within the premises for use as a betting premises (sui generis) with the installation of six sport betting terminals. No external alterations are proposed to the existing frontage, albeit as cited above a

new internal entrance / exit will be created and enclosed to keep this bespoke area separate to the main use of the building as an AGC.

The use of the building as an AGC (amusement centre) was allowed on appeal (planning ref. 10/87/1328) in 1988. Condition No.3 of the approval imposed a restriction on the use to ensure amusement machines installed on the premises to be restricted to amusement with prize machines only.

A Lawful Development Certificate (Proposed Use) application (ref. 10/23/0694) was previously submitted for the installation of 8 No. sport betting terminals within this existing adult gaming centre (Sui Generis). This application was subsequently withdrawn as it was concluded that the proposal would not be ancillary to the main use of the building as an AGC, and thus represented a material change of use to part of the unit which necessitated planning permission to be obtained.

There appears to be conflicting information contained within the submission. The accompanying cover letter refers to the proposal 'regularising the location of the 6 sports betting machines' which gives the impression that the equipment has been installed. However, the application form points out that the work / change of use has not started. An internal inspection of the property has been carried out and I can confirm that the proposal has not been implemented, therefore the application is not retrospective.

Site Photos:



Publicity:

3 neighbours were consulted by letter and a Site Notice displayed to advertise the application. The following is a summary of the comments received:

- Proposal will require an application for a betting office licence as existing AGC licence prohibits them from installing the proposed betting terminals. It involves a material change of use formed and is such that a betting office will be operating within a separate and designated area at their premises which is evident given a previous

LDC application was submitted for the proposal which was subsequently withdrawn, thereby acknowledging the creation of a new planning unit for a an additional sui generis use.

- Allowing proposal will set an undesirable precedent for the sub-division of existing AGC's to offer sports betting terminals.
- Proposed use will not strengthen and focus the retail offer, facilitate expansion of the role of town centre; protect or enhance the leisure offer or help establish a vibrant town centre residential population as required by Policy 26. Similarly, aspiration for Blackburn Town Centre SPD Investment Area 4 on protection and enhancement of the leisure and cultural offer in this part of the town. Therefore, proposed use will not create a lively or diverse space to encourage such uses to locate in the Northgate Area.
- Contrary to Policy 30 of the Local Plan Part 2 in which new betting offices will only be allowed exceptionally, and no such case has been advanced by the applicant in support of this application. Proposal will result in an over-concentration and accumulation of gambling uses.
- No evidence as to whether specific criteria laid down in LPP2, Policy 31 can be satisfied. Several of the surrounding units are already in uses with are outwith Class E, and the use, in replicating the services provided by existing betting offices, will also fail to contribute to the vitality and viability of this part of the town centre. Proposal is not considered to represent a complementary use in the Secondary Shopping Frontage, given that it would result in an over concentration of gambling uses.
- The existing betting shops within Blackburn town centre already offer a good number of the Self Service Betting Terminals as a part of their customer experience. These shops have staff who have been trained to operate a full betting shop, with SSBTS, gaming machines and traditional "over the counter" betting. In all betting shops the SSBTs form a part of the offering, but this application seeks to make the SSBTs the only option. We have concerns regarding the significant reduction in customer interactions that would take place. In a "traditional" betting shop the vast majority of clients will approach the counter at some part of their visit. This allows staff to engage with the clients regarding their activities and also AML / affordability / general compliance checks to be carried out. The layout of the very small area (appearing to be sub 200 sq ft) and the counter seems to indicate that clients may well be left unsupervised. There are no facilities within the proposed area, so if a client wishes to use the toilet they need to walk into the AGC section to do so.
- We note that Cashino had an application (ref. 10/20/0891) and appeal dismissed at 29 King William Street in recent years. This is around 30m

from the proposed application. Both the officers delegated report and appeal decision contain points which are relevant to the assessment of this current proposal e.g. another gambling facility likely to increase anti-social behaviour to the detriment of the vitality and viability of the town centre.

- The proposal by the applicant will, by their own acknowledgment, breach their condition (3) which was imposed under their appeal decision from June 1988. No reasoning has been produced to assert as to why this condition should be varied.
- The development would fail to contribute positively to the area; instead, a negative outcome would result on the social and environmental character of the area, contrary to LPP2, Policy 8.

Statutory Consultation Responses:

BwD Licensing:

I am aware of the above application submitted by Luxury Leisure seeking a part change of use from adult gaming centre (sui generis) to betting office (sui generis) with siting of 6 No. sports betting terminals.

Whilst the applicant does hold an Operator's licence issued by the Gambling Commission for the activity, it is not permissible under the Gambling Act 2005, to merely change the use of a portion of an existing AGC licensed premises in order to install betting terminals.

The licensed AGC must be entirely separate from any proposed Betting premises and there can be no internal entrance facilitating direct access between the AGC and the Betting premises.

The Betting premises entrance should be directly from a street (defined as including any bridge, road, lane, footway, subway, square, court, alley or passage - including passages through enclosed premises such as shopping centres - whether a thoroughfare or not).

The betting premises should also be separately dealt with under the NNDR scheme and be separately authorised under a Betting premises licence issued by the Local Licensing Authority under the Gambling Act 2005.

If approved the existing AGC would need to vary that licence to reflect the new extent of the premises. To date Luxury Leisure have not communicated any of these intentions to the Licensing Authority.

BwD Public Protection:

With reference to the application, I have no objections on environmental health grounds.

DEVELOPMENT PLAN

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

Core Strategy (2011) Policies:

Policy CS1: A Targeted Growth Strategy
Policy CS11: Facilities and Services

Local Plan Part 2 (2015) Policies:

Policy 8 "Development & People"
Policy 26 "Town Centres – A Framework for Development"
Policy 30 "Managing Specific Uses Within Town Centres"
Policy 31 "Development in Defined Shopping Frontages"
Policy 39 "Heritage"

Local Plan Review

Blackburn with Darwen Borough Council is reviewing their current adopted Local Plan. The review will lead to a new Local Plan to replace the existing and will cover the period 2018 to 2037. As an emerging document, it carries weight in the decision making process.

Other material planning considerations:

National Planning Policy Framework (NPPF)

Blackburn Town Centre Supplementary Planning Document

Gambling Commission Guidance for Licensing Authorities

ASSESSMENT

The key issues in relation to this application are:

- Principle
- Amenity

Principle

The first issue to consider in the assessment of this planning application is whether the proposal constitutes a change of use. The covering letter submitted with the application argues the lawful use of the building is sui generis, as an AGC and will remain so following the installation of the proposed No.6 sports betting machines. It goes on to state the following;

'The primary purpose of customers visiting the premises, i.e. to gamble or bet within a gambling premises does not change. Whilst betting shops and adult gaming centres are separate sui generis uses, they share similar characteristics'.

It is acknowledged the proposal would take place within a single planning unit by virtue of using the existing active frontage entrance / exit, monitoring of this distinct betting area by staff members of the existing AGC, and for example customer toilet facilities reached by walking through the AGC part of the building.

However, the LPA dispute the fact that the installation of the proposed sport self-service betting terminals can be considered ancillary to the main use of the building and take the view that the proposal does represent a material change of use.

These self-service betting terminals (SSBTs) would appear to offer sports and live bets, as well as sports results for various placement options. Such betting terminals would be a clear distinction to the machines which are currently contained within the AGC offering prizes through gaming activity from users.

The Gambling Commission's Guidance for Licensing Authorities at Part 19 (Betting Premises), Section 5 refers to SSBTs. Paragraph 19.7 of this guidance

S.235(2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine.

Whilst accepted planning and licensing regimes are subject to different controls, the above provides a basis that SSBTs are not deemed to be a gaming machine, and are commonly found within betting premises.

Furthermore, a planning inspector for a recent appeal decision (ref. APP/F5540/W/22/3296792) in Hounslow for a change of use to an AGC made the following assessment;

Both AGC's and betting uses do not fall within a defined use class, they are classed as sui generis or 'of its own kind' and, irrespective of any other similarities between them, planning permission is required to change from a betting shop to an AGC, or vice versa.

Taking the above into account, the proposal is deemed to result in a material change of use to form a betting premises (sui generis) within the existing AGC. The applicant also seems to accept this finding by virtue of the withdrawal on the Lawful Development Certificate application (ref. 10/23/0694) for the proposal, as well as including the 'proposed part change of use to betting office' within the development description under assessment of this current planning application.

As already noted, the application site lies within BTC, a PSA, a SSF, and the NQ. The principle of the development is therefore assessed against policies 26, 30 and 31 of the Local Plan Part 2 (2015).

Policy 26 sets out that planning permission will be granted for development involving main town centre uses where they contribute to one or more of the 4 objectives outlined in the policy. In summary, the objectives are: i) strengthening and focusing the shopping offer; ii) expanding the role of the town centres; iii) protecting and enhancing the leisure offer, developing an evening economy, and developing cultural and entertainment facilities, particularly in the Northgate and Cathedral Quarters of BTC; and iv) establishing a vibrant town centre residential population.

Although the proposed use is not a main town centre use, according to NPPF's glossary definition of such, the listing is not necessarily exhaustive and it is reasonable to consider Betting Offices as not untypical town centre uses. Despite this, they are not included amongst those listed in the range of supporting uses identified at point iii) of this aforementioned policy which includes cultural and entertainment facilities explicitly advocated for the Northgate Quarter, in support of a targeted enhanced offer to develop an evening economy.

As such, the part sub-division of the existing AGC to form a separate betting premises with the installation of six sports betting terminals does not contribute to the objectives of town centres set out by Policy 26. In addition, the Blackburn Town Centre SPD at Investment Area 4 lists a number of strategic aspirations for the Northgate Quarter. Notably, it points out development accommodating a mix of uses would be strongly encouraged to provide vitality and visual interest, as well as activity throughout the day / evening. The proposal is considered to undermine the aspirations for the Northgate Quarter

The proposal is, therefore, found to be contrary to the requirements of Policy 26 and the SPD (Investment Area 4).

Policy 30 sets out the Council's approach to managing uses within the town centres to maintain a balance of the overall offer and to increase the attractiveness of our town centres in which to spend time. Whilst the policy supports a complementary mix, point ii) sets out betting offices will only exceptionally be permitted in the Northgate and Cathedral Quarters of Blackburn town centre. The supporting text at paragraph 5.20 makes reference to;

This area (Northgate and Blakey Moor) has recently seen the opening of several new betting offices. Such operations are only used by a limited sector of the population, and a concentration of them in one area impacts on the ability of that area to serve the wider town centre audience, particularly families.

An existing and ongoing betting office known as 'David Pluck' is identified at 44-46 Northgate. In addition, 54-58 Northgate whilst acknowledged is currently vacant, the previous use of this property was as a betting premises (i.e. Ladbrokes), and thus given no intervening use the site could potentially open again as a betting shop. As such, the proposal is considered to result in an over-concentration of betting uses in

this area. No supporting evidence has been provided that would justify an exceptional need for an additional betting premises in this town centre location. The proposed SSBT'S would differ from the gaming machines offered already at the site, and therefore may potentially attract a newer and more vulnerable population than that currently afforded by the AGC. The proposal thereby fails to meet the requirements of Policy 30.

Policy 31 sets out the Council's approach to development in defined shopping frontages, with a key focus on maintaining and strengthening the Borough's retail offer through managing the balance of uses in our retail cores. It states:

In town centres, proposals for development not falling into Use Class A1 involving ground floor units in identified Secondary Shopping Frontages will be permitted provided that:

- i) a minimum of 50% of the units in the block would remain in A1 use, or A1 and A3 use in the defined Northgate area of Blackburn town centre, taking into account unimplemented planning permissions for changes of use;*
- ii) the proposed use is complementary to the secondary shopping function of the frontage and will contribute to vitality and viability; and*
- iii) a shopfront is retained/provided.*

The proposal will not create an active frontage given the proposed betting premises will be situated within the existing AGC in a clear and distinct area. As such, the assessment of point i) is not relevant in this proposal. Notwithstanding this, it is clear the proposed betting use is not considered to be a complementary use within a Secondary Shopping Frontage, especially given the prevalence of the existing AGC, and nearby properties offering similar gambling functions to those which can be carried out on the proposed SSBT's.

It is also important to note a recent decision for an application (ref. 10/21/1302) for a change of use from a retail shop to a betting shop at 14 Lord Street, Blackburn which is positioned to the south of the application site and in relatively close proximity. The application was refused and subsequently dismissed on appeal (ref. APP/M2372/W/22/3293804). The issues raised in this appeal are very similar to those identified in the assessment of this application with the inspector concluding the proposal would undermine the vitality and viability of the town centre.

Accordingly, the proposal is found to be contrary to the requirements of Policies 26, 30 and 31, as well as the aspirations set out for the Investment 4 Area (Northgate Quarter) of the Blackburn Town Centre SPD.

Amenity

LPP2, Policy 8 i) requires development to demonstrate that it will, in isolation and in conjunction with other planned or committed development, contribute positively to the overall physical, social, environmental and economic character of the area in which the development is sited.

Paragraph 130 of the NPPF states planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; and create places that are safe and inclusive.

As set out in the principle sub-section, the proposal is considered to fail in contributing positively to the area, and as a consequence will lead to unacceptable impacts on the social and environmental character of the area.

For these reasons, the proposal does not comply with the requirements of Policy and Paragraph 130 of the NPPF.

Planning balance

Any benefits arising from the proposal such as economic purposes would not outweigh the identified policy conflict. Similarly, the imposition of planning conditions would not mitigate any subsequent harm recognised.

CONCLUSION

Taking all of the above into account, the proposal is found to be contrary to the requirements of the Development Plan and the National Planning Policy Framework.

The application is therefore recommended for **refusal** based on the following reason;

1. The proposed change of use to introduce a betting premises within an existing Adult Gaming Centre would not contribute to the town centres objectives resulting in impact upon vitality. It also undermines the Council's strategic objectives for the Northgate Quarter, by reason of an over-concentration of similar gambling establishments at a defined Secondary Shopping Frontage within the defined Northgate Quarter, as well as failing to make a positive contribution to the area. To this extent, the proposal is found contrary to Policies 8, 26, 30 and 31 of the Blackburn with Darwen Local Plan Part 2, the Blackburn Town Centre Supplementary Planning Document, and the National Planning Policy Framework.

Jamie Edwards
14 December 2023

Appendix II

34 George Street Luton LU1 2UZ

Application ref 23/01373/FUL

LUTON BOROUGH COUNCIL

DEVELOPMENT MANAGEMENT

Application for Planning Permission at:

34 George Street, Luton LU1 2AZ

Case Officer Recommendation (GC): Refusal (06 March 2024)

Recommendation Reviewed (N/A): Agreed (N/A)

Recommendation Verified (SJR): Authorised (06 March 2024)

LPA Reference: 23/01373/FUL

Valid Date: 11/01/2024

Report of the Case Officer

Site Inspection: 17 January 2024

Extension of Time: N/A

Target Date: 07 March 2024

Revised Target Date: N/A

The Proposal

Proposed siting of 4 sports betting terminals within existing sui generis Adult Gaming Centre use.

The Recommendation

REFUSE CONSENT for the following reasons ('Appendix 1'):

(01) *Insufficient information.*

Pre-Commencement Conditions: No

Agreed: N/A

Public Consultation ('Appendix 3')

Press Notice:	Yes
Site Notice:	Yes
Direct Consultation:	Total Consulted: 14
	Support: 0
	Objection: 2
Expiration of Consultation:	21 February 2024

The Site and Surroundings

The application site comprises a property on George Street located within the Town Centre Primary Shopping area as well as the Town Centre Conservation Area

Policy Implications

Strategic Allocation: Town Centre Conservation Area and Primary Shopping Frontage

Luton Local Plan 2011-2031: LLP1, LLP3, LLP22, LLP25, LLP30, LLP31 and LLP32

Other: Town Centre Masterplan, National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).

Summary of Relevant Planning History

The application site had 22/00886/FUL - Installation of a new shopfront, approved.

Material Planning Considerations

- Principle of Development;
- Design and Street Scene Implications;
- Adjoining Occupiers; and
- Provision of Parking.

Planning Assessment

Principle of the development

The application seeks to include 4 sports betting terminals within existing sui generis Adult Gaming Centre (AGC) use for the site. Therefore, the starting point for the planning assessment is to establish if the proposal would result in a material change of use.

The applicant argues that the betting use would be ancillary to the primary use of the premises as an AGC and the use of the unit would remain sui generis. There will be no external alterations to the property and entrance to the premises will remain as existing. The applicant goes on to state that 'whilst betting shops and adult gaming centres are separate sui generis uses, they share similar characteristics'.

On review of the Use Class Order, betting shops and Adult Gaming Centres are both considered to be sui generis and to this regard, the addition of betting terminals would be considered to be a material change of use and would require a separate planning permission.

This opinion is echoed within a recent planning appeal decision in Hounslow APP/F5540/W/22/3296792 which states that '.....However, as both AGC and betting uses do not fall within a defined use class, they are classed as sui generis or 'of its own kind' and, irrespective of any other similarities between them, planning permission is required to change from a betting shop to an AGC, or vice versa'.

In this case, whilst it is noted that the shop has been an AGC sui generic use for some time, the fact that the betting terminals would fall within a separate sui generic use class and be unrelated to the AGC, this would not be considered to be ancillary, meaning that the site would be considered as a separate planning unit and require a change of use application.

Further, Licensing has confirmed that the applicant would require a separate licence for the betting use and the mandatory conditions are that access shall be from a street, there shall be no means of direct access between the premises and other premises used for the retail sale of merchandise or service. There is also a default condition which states that no facilities for gambling shall be provided on the premises between the hours of 22.00hrs and 07.00hrs the next day.

Whilst it is noted that the applicant has stated that the four sport betting terminals would be within their own area and only operate between 8:00 and 22:00hrs, from the planning statement received by the applicant, there would be no external changes to the existing shop front and the premises would operate as one unit. No information has been provided by the Applicant in respect of this discrepancy. Whilst it is noted that planning and licensing are subject to separate controls, there is a clear difference between AGC and Betting Shops warranting separate use classes within planning.

There has also been some representation to this application regarding the subdivision of the planning unit / shared facilities, setting a precedent for other AGC, lack of Policy analysis and introducing a separate sui generic use class to one unit. To this regard, the applicant was given the opportunity to respond and provide further information, however, no response has been received.

Therefore, on the basis of the foregoing, it is the view of the LPA that the application would result in a material change of use and the proposal is viewed as a separate planning unit and not ancillary to the primary use.

However, in this case, the application does not provide sufficient to assess the development on this basis. Attempts were made to contact the agent to provide additional information, however, no response has been received.

On this basis, the LPA have been unable to assess the application as in accordance with LLP1, LLP3, LLP22, LLP25, LLP30, LLP31 and LLP32.

Design and Street Scene Implications

The application site comprises a mid 20th century building fronting George Street. The site is located within the Town Centre Conservation Area where new development is expected to preserve the character and appearance of the area.

The applicant has cited that there would be no external changes and on this basis, Conservation Officer has not objected. As such the character and appearance of the Town Centre Conservation Area will not be impacted, preserving its significance.

However, the Conservation Officer has noted that should the applicant require a separate entrance, alterations may be possible but will 'complicate' the existing shopfront design and would need to be carefully considered under a further application.

Implications for Adjoining Occupiers

All representations received have been considered.

The NPPF Paragraph 135 states amongst other things, that planning policies and decisions should ensure development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Further, LLP25 includes creating high quality design which includes opportunities for reducing crime and anti-social behaviour.

However, it is noted within the Beds Police comments that this has not been addressed by the proposal and should the application be recommended for approval, the applicant should produce a comprehensive Management Policy, to demonstrate how they have considered crime and disorder and what measures they intend to put in place to reduce the likelihood of an increase in these levels

No other properties would be significantly affected by the development.

Provision of Parking

Given the nature of the proposal, the Local Highways Authority was not notified of the application.

The site is within a highly sustainable location within walking distance of dwellings surrounding Luton Town Centre and benefitting from excellent access to public transport and town centre car parks. No implications anticipated

Conclusions and Recommendation

In light of the foregoing, the development would, result in a material change of use. However, there is insufficient information provided to assess the application on this basis. More information was requested from the agent, but no response was received.

Therefore it is not possible to fully assessment the proposal against Policies LLP1 LLP3, LLP22, LLP25, LLP30 of the Luton Local Plan 2011-2031.

Appendices

Appendix 1: Reasons

Reasons for Refusal

- (01) *The development as indicated on plans 3548(B)04, 3548(C) 01B, DC01, DC02, DC03, and DC04 provides insufficient information to fully assess the proposal as a material change of use, therefore, it is not possible to assess the proposal in accordance with Planning Policy LLP1, LLP3, LLP22, LLP25 and LLP30.*

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Appendix 2: Technical Consultation Responses

- **BEAMs:** No objections. No external changes.
- **Beds Police:** It is recommended that the applicant produce a comprehensive Management Policy, to demonstrate how they have considered crime and disorder and what measures they intend to put in place to reduce the likelihood of an increase in these levels.
- **LBC Licensing:** The applicant would require a separate premises license for betting. The mandatory conditions are that access shall be from a street, there shall be no means of direct access between the premises and other premises used for the retail sale of merchandise or service. There is also a default condition which states that no facilities for gambling shall be provided on the premises between the hours of 22.00hrs and 07.00hrs the next day.

Appendix 3: Public Consultation Responses

- **Issue: Cannot operate as a separate planning unit / shared facilities.**
 - *Officer Consideration: Addressed within the body of the report.*
- **Issue: No analysis of Planning Policy.**
 - *Officer Consideration: Addressed within the body of the report.*
- **Issue: Different sui generic use**
 - *Officer Consideration: Addressed within the body of the report.*
- **Issue: Set a precedent to sub divide AGC's**
 - *Officer Consideration: Addressed within the body of the report.*