

Delegated Report

Full Planning Application

Application No:	20220456
Location:	22 - 23 New Road Gravesend Kent
Description:	Change of Use from Retail Use (E(a)) to an Adult Gaming Centre (Sui Generis)
Applicant:	City Gaming Limited
Site Visit:	16.05.2022 / 13.07.2022

Submitted Documents/Plans

- Application Form;
- Planning, Design and Heritage Statement - by Woods Whur;
- Drawing no. TQRQM22116092117283 - Site Location Plan;
- Drawing no. GRA_GA001 - Existing Floor Plan;
- Drawing no. GRA_GA002 Rev B - Licensing Plan (Proposed Floor Plans);
- Drawing no. GRA_ELE001 - Existing Exterior Elevations;
- Drawing no. GRA_ELE002 - Proposed Exterior Elevations.

Relevant Planning History

Reference	Description	Decision	Decision Date
20100796	Display of internally illuminated fascia sign and an internally illuminated projecting sign at fascia level.	Consented	13.10.2010
20021014	Display of internally illuminated fascia sign and internally illuminated double sided projecting	Consented	30.01.2003
19950366	Retention of shopfront.	Permitted	26.02.1996

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 - Sustainable Development
- CS02 - Scale & Distribution of Development
- CS05 - Gravesend Town Centre Opportunity Area
- CS07 - Economy, Employment and Skills
- CS08 - Retail Leisure and Hierarchy of Centres
- CS11 - Transport
- CS19 - Development and Design Principles

Gravesham Local Plan: First Review (1994)

- P3 - Vehicle Parking Standards

- S3 - Maintenance of Shopping Frontages
- S4 - Non-Shopping Uses in the Shopping Areas

Paragraph 33 of the NPPF (2021) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- Section 2 - Achieving Sustainable Development
- Section 6 - Building a Strong, Competitive Economy
- Section 7 - Ensuring the Vitality of Town Centres
- Section 12 - Achieving Well-Designed Places

Consultations, Publicity and Representations

Consultees

Internal Consultees

GBC - Highways - no objection, advisory comments made.

GBC - Regulatory Services (Environmental Protection) – no objection, subject to noise impact assessment being carried out.

GBC - Community Safety - I've checked my records and with other colleagues in the Community Safety Unit and we've not actually had any reports of crime/ASB incidents at either the existing Admiral Gaming Centre or Cointron Casino Slots on the opposite side of New Road. I've also spoken to PC Mark Wood from the Town Centre Policing Team and he's confirmed that Police have very, very rarely had to deal with incidents linked to either of the existing Gaming Centres. On that basis, I don't think that there would be any objections that we would be able to raise on community safety grounds – although purely from the perspective of having a 'balance' in the town centre, this does mean there'll be 3 Gaming Centres a couple of doors away from each other so a bit of a concentration.

GBC - Licensing - There is no provision in the Gambling Act for us to object on the ground of cumulative impact, with the exception of Casino's where the legislation has set overall limits. However, Section 166 of the Gambling Act 2005 gives a Licensing Authority the ability to resolve not to issue casino premises licences. This licensing authority passed a 'no casino' resolution at a meeting of Full Council on 4 December 2012, 8 December 2015, 18 December 2018 and (due 7 December 2021). However, in this case the AGC is not a casino. Confirmed that the Admiral AGC at 27-28 New Road has a license to operate 24 hours daily.

External Consultees

Kent Police, Design Out Crime - No objection, subject to conditions.

Neighbouring properties

A notice was displayed on site 16th May 2022. In addition, eleven surrounding properties were consulted and one representation was received. The neighbour registered objection to the development and the

comments have been summarised below:

- Policy S4 of the LPFR should not be applied in this instance;
- The preamble of S3 seeks to avoid the deterioration in the quality of shopping centre,
- Policy S3 does restrict the use within Primary Shopping Frontages to retail, but not considered appropriate on a primary frontage;
- S3 are separate to the considerations of S4;
- Less than 49% of existing stores/units are within the Primary Frontage Area are permitted for retail/shopping uses and lower than what is expected in a Primary Shopping Frontage, further loss would cause further harm;
- A further loss of retail to non-retail would have an adverse impact on the vitality and viability of the Primary Shopping Frontage;
- Sui Generis uses not suitable in the town centre, and would have been included in the Class categories if deemed appropriate;
- There has been a 48 year history of retail uses at the site and retail is intrinsic to the area, change of use would impact the vitality and viability of the area;
- Design of the AGC frontage are usually obscure glazed, does not provide an active shop frontage and contrary to Policy CS19 as new development should be designed in a inclusive way. The restrictive nature of the shopfront display, location should not be located on a Primary Shopping Frontage, but rather on a secondary street;
- Employment benefits from the proposal are not materially significant, compared to the retail benefits
- Policy CS05 supports retail function of the area and need for better quality of the retail uses and references HOW CS08 directs retail to primary shopping area;
- Change of use of the site from retail to an AGC directly contradicts CS05.

The overall date of expiry was 6 June 2022.

Officer's Analysis

Site Description

The application site is situated within Gravesend Town Centre, located within the Primary Shopping Area and application site also sits along the Primary Shopping Frontage.

The site previously operated as a retail unit last operated by New Look, the fashion retailer. It forms the ground level of nos. 22-25 New Road, which is considered to be a non-designated heritage asset that maintains original features and fenestration, which contributes to the quality of the street scene.



The site is directly opposite the existing Tesco, Metro store, and has a number of existing retail units within the immediate locality along New Road. However, there are also a number of vacant units nearby.

The policy context that is of direct relevance to the proposed development are CS05 (Gravesend Town

Centre Opportunity Area) and CS08 (Retail Leisure and Hierarchy of Centres) of Gravesham's Local Plan Core Strategy (LPCS) (2014) and S4 (Non-Shopping Uses in the Shopping Areas) of Gravesham's Local Plan First Review (LPFR) (1994).

Proposed Development

The application seeks to change the use of the retail unit (Class E(a)) into an Adult Gaming Centre (Sui Generis). The site would result in the loss of a retail unit along a Primary Shopping Frontage and within a Primary Shopping Area.

The submitted plans indicate there would be changes to the shop signage with the installation of a projecting sign. An advert consent application has not been submitted to the Local Planning Authority (LPA) for approval, nor has the changes to the signage been referenced on the application form. Therefore, these aspects of the application have not been considered in the current application. Any changes to the shop signage should be dealt with by an appropriate application.

Principle of Development

The application site is within Gravesend Town Centre and, as such, Policy CS05 and CS08 (LPCS) and Saved Policies S3 (Maintenance of Shopping Frontages) and S4 (LPFR) are relevant.

Paragraph 86 of the National Planning Policy Framework (NPPF) (2021) maintains that decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation, planning decisions should;

- (a) define a network and hierarchy of town centres and promote their long term-term vitality and viability by allowing them to grow and diversity in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflect their distinctive characters;
- (b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a strategy for the future of each centre;

Policy CS05 (LPCS) states that the principal focus for Gravesend Opportunity Area will be the focus for a town centre related economies and social activity. In order to achieve this, the policy seeks to consolidate the existing retail area, among other things, and also promote an evening economy.

Policy CS08 (LPCS) relates to retail, leisure and the hierarchy of centres and, in particular, seeks to protect and enhance local centres by safeguarding the retail character and function of such centres by resisting development that would adversely affect their vitality and viability and encouraging a mix of units.

Saved Policy S3 (LPFR) maintains that the Council will generally resist changes of use to alternatives other than shopping (within Use Class A1) at ground floor level or the principal trading level.

Saved Policy S4 (LPFR) maintains that the Council will allow changes of use to uses that are appropriate to the Town Centre Shopping Areas and which require a shop window frontage provided if the total number of buildings in such uses in each particular length of street is not excessive.

As indicated in the planning history above, the application site has had a long history of retail use which stems back to over 25 years.

It is noted that Part A of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended) now includes Class E (Commercial, Business and Service use) which includes shops (formerly A1 use) and that, by virtue of Section 55(2) of the Town and Country Planning Act 1990 (as amended), a change in the primary use of land or buildings where the before and after use falls within the same use class, is work that does not amount to development. However, in this case, the last known use at the site was for retail use for a clothing store and, thus, the LPA need to consider the impact of the change of use to

an Adult Gaming Centre within the Town Centre and along a Primary Shopping Frontage.

At paragraph 4.6.41, the preamble to Policy CS05 (LPCS), expands on how the Council will maximise development within the Gravesend Town Centre Opportunities Area. Of particular relevance are the following two points, which demonstrate how the Council will;

- Support and enhance retail, leisure, entertainment, cultural and tourism provision in accordance with the sequential approach;
- Support the redevelopment of under-used sites where this makes more efficient use of the sites and improves townscape character; and
- Support existing retail, commercial and service functions on the ground floors and the provision of offices and residential uses on upper floors subject to achieving a satisfactory living environment.

Evidently, the Council supports existing retail functions on ground floors while, simultaneously, supporting the redevelopment of under-used sites. Furthermore, Policy CS08 (LPCS) is explicit in what the Council seeks to achieve, which is to 'safeguard the retail character and function of existing and new centres by resisting development that would adversely affect their vitality and viability'. Paragraph 5.2.25 states that Gravesend Town Centre 'will be maintained as the highest order centre within the Borough and retail, leisure, entertainment facilities and more intensive sport and recreation uses...'

Of direct relevance here, are the LPFR (1994) policies which seeks to avoid any deterioration in the quality of the shopping centre and resists changes of use to alternatives, other than shopping (within the former Use Class A1) at ground floor level or principal trading level. Policy S4 is also of relevance regarding non-shopping uses, whereby the Council recognise that non-shopping uses are required in the Town Centre, but caveats this that these units must contribute to the prevailing character by avoiding dead frontages and maintain the variety within the street. Policy S3, although seeking to safeguard different issues, consolidates this by ensuring that the quality of the shopping centre is maintained, by controlling uses that would lead to deterioration or weaken the shopping frontage.

The main issue for this application is the effect of the proposed development on the character and function of the Gravesham Town Centre Opportunity Area, which will be assessed in the Change of Use section. The report will continue to assess potential impact on Amenity as well as Design and Appearance.

Change of Use

As aforementioned in this report, the application site is a vacant unit, formerly a 'New Look' clothes shop. The unit has been vacant for approximately 2 years. A vacant unit within the primary shopping area is an under-used site and undermines the function, vitality and viability of the town centre.

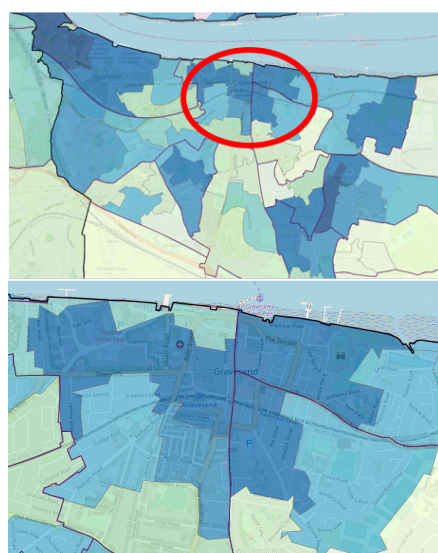
A general survey was undertaken into the uses within Gravesham's town centre, mapping 72 units along New Road and King Street. The units have been presented in Table 1 below, which separates their uses (including vacant units):

Use Class	Number of Units	%
Sui Generis	20	27.8%
Class E	41	56.9%
Class F2	1	1.4%
Vacant	10	13.9%

Table 1 - New Road / King Street Survey

The survey demonstrates there are number of vacant units within the town centre, however the percentage of vacant units is not excessive. The survey also shows that there is a variety of uses within the town centre. However, as the previous use of the application site was retail, and the proposed use as an Adult Gaming Centre (AGC), the figures have been broken down further by identifying the Class E (Retail) units

ward as the most deprived in the Borough, and one the most deprived in the Country. The wider research based evidence on Gambling (see '*Effects of Gambling*' below) demonstrates that those living in deprived areas are more vulnerable to gambling, which formed part of the Inspectors consideration that the proposal fails to accord with the objectives of paragraph 92 of the NPPF (2021). Although Gravesend do not have a study that identifies the specific deprivation within the Borough, parts of Gravesend and Northfleet at the time of the LPCS adoption (2014) were amongst the most deprived in the Country. In order to gain a better understanding of the current deprivation, an assessment of a more recent index of deprivation shows that the town centre location in 2019 ranked in the 20% most deprived Local Authority Districts in the Country (see maps below), with some surrounding districts in Gravesend and Northfleet falling within the 10% most deprived in England.



Map legend

Deciles of deprivation

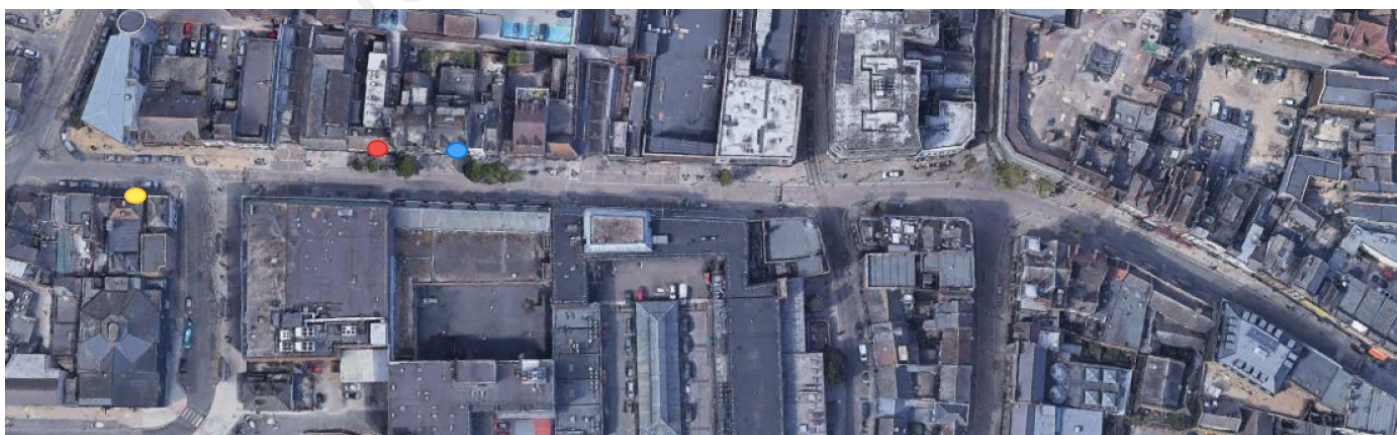


Source: Indices of Deprivation (2019)

https://dclgapps.communities.gov.uk/imd/iod_index.html#

The site of the dismissed appeal is within 10% of the most deprived areas, and therefore, Gravesend town centre location (20%), where the AGC would be located, is not considered directly comparable and the LPA cannot justify the same grouping of gambling uses that was adopted by the Inspector. As such, similar to the other appeals in Eastwood and Newham, the betting shops and AGCs within Gravesend town centre must be assessed separately in this application. Therefore, the provision of an additional AGC within the area, discounting the other established gambling uses, is not considered a proliferation of AGCs.

Nevertheless, there are concerns with clustering of the AGCs (see map below). Firstly, there is a 'Cointron' Casino Slots located on the edge of the town centre (yellow). The other AGC is an Admiral Adult Gaming Centre at 27-28 New Road, three units to the West of the application site (red). With the proposed development (blue), there would be three AGCs clustered towards the western edge of the survey area, with the applications site and Admiral AGC within extremely close proximity.



As aforementioned, the three units would not be considered an unacceptable proliferation within the wider area defined under Policy CS05 (LPCS). However, the AGCs are clustered within a 90m radius and are positioned on the western gateway into the town centre, which is a key route from the bus station on Garrick St and the train station. The site and other AGCs are located near the important western gateway into the town centre and an over-concentration of non-shopping frontages/non-shopping uses within the town centre, specifically within such a small area, which is a concern for saved policy S3. Therefore, it is important to establish if the proximity of the AGCs would weaken the character of the shopping area. To this point, the Planning Statement has introduced an appeal (ref. APP/V2004/W/19/3233244) where the Inspector allowed a new AGC in a terraced row that already contained two AGCs. The Inspector concluded that "the proliferation of adult gaming centre uses, in particular in this terrace of units, would not be to the extent that the proposal would cause undue concern", as the mix of uses within the wider centre would be maintained.

Contrary to this decision, the Inspector for the appeal dismissed discussed previously in Finsbury Park (APP/V5570/W/20/325708), considered it would have "detrimental impact on the vitality and viability of the Town Centre" by failing "to assist in achieving a healthy, inclusive, and safe place within an area of deprivation that is susceptible to gambling related harm". However, the Islington Local Plan policies sets restrictions that are more robust on change of use of premises within primary frontages, unless the unit has been vacant for a continuous 2-year period. Moreover, the policies state that betting shops, amusement centres and other similar uses (that the Inspector considered included AGCs) are to be restricted when they result in negative cumulative impacts. Unlike Islington, Gravesham LPCS does not reference gambling establishments, instead more generally encouraging mix, and places no such time restrictions on the changes of use for premises. Therefore, in this instance, although the AGC uses are clustered within a small area, the wider mix of uses in the centre will be maintained and the shopping frontage will be improved from its current state as a vacant unit, in accordance with saved policy S3 (LPFR).

Note: - As the application has not submitted details of the proposed shop frontage, beyond the indicative advertisements, this could be conditioned to ensure that an active frontage is installed to meet the objectives of saved policy S3 (LPFR).

The neighbour representation objected to the development on the grounds of the proposed change of use being contrary to policy and the AGC would cause harm to the town centres retail function. The majority of the issues raised have been considered in this section, specifically the mix of uses within the town centre and oversaturation of Sui Generis uses. The concern with the dead frontage as referenced above will also be addressed in a later section of the report.

Lastly, the neighbour response commented on the loss of another retail uses, and its impact on viability and vitality town centre. The established retail market has changed considerably in recent years with the introduction and significant uptake in online shopping, which has had an impact on primary shopping areas and resulted in a decrease in retail shops within these areas. Moreover, the proximity of large shopping centres such as Bluewater has affected the viability of town centres of Gravesend and surrounding towns. The LPCS and LPFR policies do not preclude the addition of AGCs in the town centre. Instead, as highlighted above, they seek to restrict the numbers of uses in order to ensure that proposals maintain and enhance the vitality and viability of the town centres' retail and service function, and that they do not result in an unacceptable concentration of uses or in unacceptable effects on the amenity, character and function of the area. Therefore, this proposal is not considered to undermine the provision of shopping services in Gravesend's town centre, nor impact the vitality or viability of the centre, but would bring a vacant site within the primary shopping area back into use.

Overall, it is considered that the proposal safeguards the function of Gravesend town centre, and will increase the vitality of the area by bringing a vacant unit back into use. The LPA cannot justify a grouping of gambling uses into their assessment based on deprivation indexes and therefore the provision of three AGCs is not an over-concentration. Nevertheless, the LPA do consider that the provision of any 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.

As such on balance and subject to conditions, the proposal is in accordance with Policies CS05 and CS08 (LPCS), saved Policies S3 and S4 (LPFR), as well as paragraph 81 of the NPPF (2021).

Amenity

Policy CS19 (LPCS) seeks to protect amenity and ensure acceptable future living conditions. The NPPF also assists and seeks to ensure developments will function well, do not undermine quality of life and create attractive and comfortable places to live, work and visit and seeks to “secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.

Under this proposal, the key issues that would affect neighbouring amenity relate to the hours of operation, noise, social effects of gambling and car parking. Comments on these aspects are as follows:

NOTE: - It is important to highlight that a Prior Approval Class MA application was approved for the change of use of the upper floors of 22-25 New Road to no.8 apartments.

Hours of Use and Employment

The application proposes that the AGC would be open 24/7. Although these opening hours differ significantly from other uses within the town centre, they are in accordance with the operating times of the nearby Admiral AGC. GBC Licensing have confirmed that it has a license to operate 24/7.

Moreover, through a wider investigation into other AGCs in surrounding towns, 24/7 opening hours are common for this type of use. Therefore, it would be inappropriate for the LPA to object to the proposed opening hours of the unit. However, given the residential properties above, it has been requested that a noise impact assessment is submitted (see Noise section below).

The proposed AGC will employ up to 10 members of staff.

Noise

The application has not been supported by a noise impact assessment. Although the supporting documents state that “there will not be any noise or disturbance to adjoining commercial uses or residents”, GBC Regulatory Services (Environmental Protection) are concerned about the potential for a nuisance to be caused by noise. This is more prevalent with the recently approved application for the change of use of the upper floors into apartments. As such, Regulatory Services have requested a planning condition to ensure that a noise impact assessment is submitted and approved in writing by the Local Planning Authority.

Effects of Gambling

The Department of Health and Social Care commissioned Public Health England (PHE) to undertake a review of evidence on gambling harms (2019). Public Health England (PHE) were requested to ‘inform and support action on gambling-related harm as part of the follow up to the Department for Digital, Culture, Media and Sport-led review of gaming machines and social responsibility’.

The review identified that the types of harms associated to gambling are:

- financial
- relationship disruption, conflict or breakdown
- mental and physical health
- cultural
- employment and education (referred to as reduced performance at work or study)
- criminal activity

The public health issues and harm resulting from gambling arising from the PHE report are acknowledged,

however, AGC uses are deemed legitimate and the use would be subject to a separate licensing regime under the Gambling Act 2005. The Gambling Act 2005 would ensure that the proposed use would operate in a manner that addresses certain issues related to gambling. Therefore, although there are public health issues and research demonstrating harmful risks associated to gambling, due to AGCs being legitimate uses and the position of the Gambling Act 2005, there is not adequate grounds for the application to be refused for such concerns.

Anti Social Behaviour

In order to be satisfied that the proposed use will not negatively affect or increase anti-social behaviour, GBCs Community Safety Team and Licensing provided comments. Kent Police's Designing Out Crime Team have also been consulted. There is no objection to the proposal from any of these consultees, with Community Safety confirming that that have not had any reports of crime or anti social behaviour incidents at either of the existing AGC's in the town. Kent Police have provided a number of secured by design requirements which have been included as a condition.

Parking and Highways

Policy CS11 (LPCS) seeks to ensure that new developments mitigate their impact on the highway and provide sufficient parking in accordance with adopted parking standards.

The application site is located within the town centre, with good access to surrounding public car parks in the St George's and other nearby car parks. Therefore, although the proposal would result in a net increase of 10 employees (on the current situation), it is not considered to result in any significant additional vehicle movements nor have any adverse impact on the highway network, and would be in accordance with Policy CS11 and paragraph 111 of the NPPF (2021).

Design and Appearance

As previously discussed in this report, the application site is considered to be a non-designated heritage asset that, at first floor and above, maintains original features and fenestration, which contributes to the quality of the street scene. Nevertheless, the site is not within a conservation area, but is located within close proximity to the High Street & Queen Street and King Street Conservation Areas. However, this application is solely for change of use, and no changes to the external shop signage are considered. Although the submitted plans indicate there would be changes to the shop signage with the installation of a projecting sign, no reference to this has been made on the application form.

To cover changes to signage and adverts, a separate advert consent application must be submitted to the LPA for approval. The frontage of the unit is relatively small, with a maximum width of 9m. This is not excessive and would be unlikely to have a detrimental impact on the appearance of the non-designated heritage asset above.

Therefore, these aspects regarding design cannot be considered in this application and the details of the shops frontage will be conditioned to ensure that it is active and in keeping with the character, to accord with saved policy S3 (LPFR) as well as Policy CS19 (LPCS).

Suggested Conditions

- Time Limit
- Approved Plans
- Restriction on Use
- Details of Shop Frontage
- Noise Impact Assessment
- Designing Out Crime

In addition to the suggested conditions, there will be informatives attached to the decision notices relating

to:

- For the avoidance of doubt alterations to the frontage and changes to the advertisement consent required

Conclusion

The application has been fully considered and is in accordance with local and national planning policy.

The site is a vacant and unused unit with the primary shopping area of Gravesend town centre. Although Adult Gaming Centre uses are present within the town centre, the introduction of a new unit would not result in an over-concentration and will bring a vacant unit back into use, which strengthens the viability and vitality of the area, without undermining the provision of shopping services given the existing mix. The frontage of the unit will be conditioned to ensure that an active and engaging frontage is installed to compliment the retail character of the town centre, and no advertisements can be altered without a separate consent from the Local Planning Authority. Therefore, the principle of changing the use of the unit to an AGC is considered to, subject to conditions, accord with Policies CS05, CS08 and CS19 (LPCS), saved Policies S3 and S4 (LPFR), as well as paragraph 81 of the NPPF (2021). However, the Local Planning Authority considers that this use is on the balance and therefore is extremely unlikely to support any other developments of the same use within the town centre, tipping the balance contrary to relevant policies.

The proposed AGC will be conditioned to ensure that noise assessments are submitted and approved by the Local Planning Authority, in order to safeguard amenity of future occupiers in accordance with Policy CS19 (LPCS). There are no highway concerns with the proposal.

Lastly, consideration was made towards the public health concerns surrounding AGCs and gambling. Whilst the harmful impacts are concerning, the provisions of the Gambling Act 2005 controls the operation of uses such as AGCs. Moreover, given that AGCs are legitimate uses there is little grounds to refuse the application on public health concern.

Overall, it is recommended that the application is permitted, subject to conditions.

Recommendation

Permission

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	28 th July 2022	Dated:	29 July 2022