

DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0547/22/VC
Proposal: Change of use of the ground and first floor at 48 King Street from retail (Use Class E / A1) to an Adult Gaming Centre (Sui Generis). (Application under Section 73 of the Town & Country Planning Act 1990 to remove Condition 3 of previously approved Planning Application ST/1045/20/FUL. Consent now sought to extend opening hours to 24 hours a day, 7 days a week).
Location: 48 King Street
South Shields
NE33 1HZ

Site Visit Made: 08/08/2022

Relevant policies/SPDs

- 1 DM1 - Management of Development (A, B and G)
- 2 LDF CS SC2 - Reviving our Town Centres and other Shopping Centres
- 3 SSTCW AAP Policy SS1 - Strategic Vision for South Shields Town Centre and Waterfront
- 4 SSTCW AAP Policy SS7 - Retailing Opportunities in South Shields Town Centre
- 5 SSTCW AAP Policy SS8 - Evening and Night-time Economy in South Shields

Description of the site and of the proposals

The application property of 48 King Street is a two-storey commercial building located within South Shields Town Centre, forming part of the Primary Shopping Frontage in the Primary Shopping Area as defined in the South Shields Town Centre & Waterfront Action Plan.

Planning permission was granted in February 2021 (ref. ST/1045/20/FUL) for the change of use of the ground and first floors of the unit to an Adult Gaming Centre (AGC) (Sui Generis). The first floor would only be used by staff, and no external alterations were proposed to the building to facilitate the change of use. Permission was granted subject to a restrictive opening hours condition, allowing the premises to open between 8am and midnight daily. This application seeks the removal of this condition allowing 24 hour operation at the site.

Publicity / Consultations (Expiry date 16/08/2022)

1) Neighbour responses

Cllr David Francis (ward Councillor for Beacon and Bents): I am writing to lodge an objection to the proposal to grant a 24 hour licence to the slot machine premises on King Street. I believe that this would have a negative impact on the character of the area and could potentially have a very negative impact on the community. In a world where gambling addiction ruins lives and can lead to financial ruin, I see no benefit from allowing such premises to run 24 hours a day in the centre of our town.

2) Other Consultee responses

Traffic and Road Safety: No issues arise from the proposal.

Environmental Health: I have no comments or objections to this application with reference to residential amenity related noise concerns.

No comments to make from a land contamination perspective.

Waste (Collections) Team: No comments received.

Spatial Policy Team: The Council is committed to supporting the vitality and viability of South Shields town centre as is reflected in Core Strategy Policy SC2 and South Shields AAP policies SS1 and SS8. It is also committed to supporting a vibrant evening economy within the town centre as reflected in point C of Core Strategy Policy SC2 and in South Shields AAP Policy SS8.

The Council has also recognised that incorporating residential development within town centres is important to supporting vitality and viability as it brings additional footfall into the centres. Changes to the use classes order also facilitate residential development within centres. Ensuring that planning decisions do not conflict with residential amenity is therefore essential.

The applicant has submitted a supporting letter. The letter states Mercury Slots typically operate 24 hours and that 'due to there being robust evidence justifying 24-hour opening in this location, they wish to remove condition 3, allowing 24-hour operation daily'.

The letter also refers to observations conducted by Leveche Associates Limited (former police officers that assist Merkur Slots Ltd with the licensing and planning process) and conclude 'From the observations it is clear that the premises operation 24-hours a day will not increase anti-social behaviour, noise or any other crime and disorder that would have a negative impact on nearby residents, the environment, local infrastructure or wider local community'.

For the reasons given above, the Spatial Planning team consider that the assessment of the robustness of this evidence is of key importance to the assessment of the application.

Community Safety Team: Having a 24 hour facility on King Street is likely to cause Police some staffing issues / concerns given that King Street has no other round the clock businesses operating in that area. No comments to make from a CCTV perspective.

Licensing Team: A licence exists at the premises which is a Bingo licence and not an AGC. Bingo licences have default conditions as follows:

1. Subject to paragraph 2, no facilities for gambling shall be provided on the premises between the hours of midnight and 9am
2. The condition in paragraph 1 shall not apply to making gaming machines available for use.

The only licensed premises in South Shields town centre are the ASDA Supermarket (at Coronation Street), and the petrol filling station (at Crossgate).

Public Health Team: Having read through the comments provided by the Police, we are not sure that there is anything else we would add from a Public Health perspective as it is very comprehensive and we feel that it captures all the pertinent points.

We agree and fully support the comments and rationale from Northumbria Police. The application was originally granted with restrictions in place and we would agree that this should remain as is and refuse 24 hour opening.

Northumbria Police (Designing Out Crime Officer): Northumbria Police were opposed to the original application for an Adult Gaming Centre at 48 King Street (ref. ST/1045/20/FUL) and it was only the applicant's agreement to moderate the hours of their operation that persuaded us to relax our opposition. We see this application as a reversal of an agreement and we oppose it.

1. The Applicant presents a well argued, but decidedly partial, case supported by a consultancy, that they hired, to say that their site hasn't had any problems and on the basis of overnight observations on three days in May they conclude that the premises "operating 24-hours a

day will not increase anti-social behaviour, noise or any other crime and disorder that would have a negative impact on nearby residents, the environment, local infrastructure or wider local community”.

2. We do not doubt the Consultant’s experience in policing Metropolitan London, we just do not accept on the basis of a narrow view of King Street for 27 hours in May, that you can reach a conclusion about the impact on the wider local community of South Shields. The neighbourhood Inspector for the B1 Neighbourhood is we believe better placed to judge what has an impact on South Shields and his view is, and that of his immediate predecessor was that “The night time economy in South Shields is managed by the neighbourhood policing teams. They finish duty at midnight on all days with the exception of Saturday (the busiest day) when they work until 3am. After those times the Town centre becomes the responsibility of the 24/ 7 response shifts. The response teams have the whole of the borough of South Tyneside to Police, an already busy and demanding area and the prospect of a premises extending the licensed hours in the Town centre would cause a number of problems in terms of responding to incidents and providing a service to the community”.
3. If we actually breakdown the Consultant’s observations, they were present on Thursday 25th May 2022 from 1950hrs to 0600hrs the next morning during which time they noted how quiet the area was during the night with no anti-social behaviour, drug dealing, drunkenness, vulnerable or begging taking place in King Street. They returned the next night Friday 26th May at 2000hrs till 0600 on the Saturday morning, and 2250hrs on the Saturday evening till 0500hrs on the Sunday morning, reaching the same conclusions. They also returned for an hour and ten minutes on the Sunday afternoon. We would suggest that trying to understand the crime context of an area from observations on one street and on just three time limited visits is not the basis for assessing year round opening of a land based gambling venue. But if we consider the demand on policing on those three days between those hours, on the Thursday night the Policing Team in South Tyneside dealt with 31 incidents, the following night 29 and the third night just 23, a total of 83 incidents in 27 hours. To provide further context had the observations been carried out the week before the total figure would have been 111, and the weekend after 119 in total.
4. If we look at crime and incidents in the South Shields area it is clear that this not merely a matter of crime and disorder in the immediate locality, in the last twelve months there have been 6,620 crimes reported and 17,547 incidents on the River & West Shields Neighbourhood Sector. (Data taken from QlikSense analytical app).
5. We have no doubt as to the avowed socially responsible approach that Merkur Group take, yet we struggle to reconcile that with their expressed desire of bringing the complete casino experience to low stakes gambling, particularly in a time of such economic uncertainty and a cost of living crisis.
6. Low stakes gaming, presented in a modern casino environment, would seem likely to represent a gateway to gambling, making the casino experience accessible at a lower economic entry level and offering the sophisticated inducements of casinos (e.g free refreshments etc.) to encourage the customer to extend the gambling experience, and using all the modern technology of online gaming must extend the risk of problematic gambling developing.
7. Whilst we accept that gambling is a legitimate high street activity we do not believe that it can be viewed in isolation to the potential harms to our communities it can cause.
8. The Royal College of Psychiatrists identify the potential harms of Problem Gambling to be:
 - Financial : overdue utility bills; borrowing from family friends and loan sharks; debts; pawning or selling possessions; eviction or repossession; defaults; committing illegal acts like fraud, theft, embezzlement to finance gambling; bankruptcy; etc...

- Family: preoccupied with gambling so normal family life becomes difficult; increased arguments over money and debts; emotional and physical abuse, neglect and violence towards spouse/partner and/or children; relationship problems and separation/divorce.
 - Health: low self-esteem; stress-related disorders; anxious, worried or mood swings; poor sleep and appetite; substance misuse; depression, suicidal ideas and attempts; etc...
 - Work: poor work performance; increased absenteeism; expulsion or dismissal.
9. The Health Survey for England published in December 2019 estimates that: Around 265,000 adults in England (0.4% of the population) are classified as higher risk problem gamblers. Around 2.4 million adults in England (3.6%) are classified as lower or moderate problem / at-risk gambler.
 10. Research by YouGov on behalf of Reed in Partnership ^[1] found that 57% of those who responded in the North East region had gambled at least once in the last 12 month, the highest amount in the UK where the average was 41%. More than a quarter of people - 26% - in this region said they had gambled in the past week while the national average was 16%.
 11. The Planning Authority shares with us that same duty under the Crime and Disorder Act to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment).
 12. The Gambling Commission, in its 2020 annual report on Gambling participation in 2019: behaviour, awareness and attitudes, defines problem gambling as “behaviour related to gambling which causes harm to the gambler and those around them. This may include family, friends and others who know them or care for them.”
 13. The National Strategy to Reduce Gambling Harms 2019–2022³¹² defines “gambling harms” as “the adverse impacts from gambling on the health and wellbeing of individuals, families, communities and society.” These harms are thus not limited to harms caused to problem gamblers or to those at risk of becoming problem gamblers; other gamblers can also suffer harms and cause harms to others.³¹³ Nor are the harms limited to the gamblers themselves, their families and friends. Other individuals, banks and companies may be unable to recover money lent by them or stolen from them. There will be a wider cost to society for health and treatment, welfare and employment, lost tax receipts, benefit claims, homelessness, the NHS and the criminal justice system.
 14. It would seem reasonable to conclude that during a cost of living crisis, in areas struggling to get by as it is, the focus needs to be not just on what problems occur at the actual gambling venues but equally on potential harms away from the venues themselves. We accept that some of this may not be deemed to be within the scope of planning per se, but there is a societal problem here that cannot be simply discharged by an applicant’s responsible gambling policy. That societal problem spills over into a crime and disorder problem when the potential harms of Problem Gambling transcend health and financial issues and stray into crime specifically around emotional and physical abuse, neglect, violence, criminal acts to address debt and coping mechanisms that include alcohol and substance abuse.

It would seem to us that the Applicant is placing profit over the needs of the wider community of South Shields. We remain opposed to the principle of 24 hour opening in this locality and therefore we object to the planning application.

Reason – 1. NPPF 130 (f)- Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high

^[1] Gambling and employment – Reed in Partnership 2016
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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.

Following Officer consideration of the granting of planning permission on a temporary basis, and the applicant submitting a Rebuttal Statement, further comments were received:

Thank you for the clarification and whilst we appreciate that the LPA feels constrained we do not accept the general principle of the rebuttal statement in that if it didn't happen at the site then it cannot be used as a reason for refusal/objection.

Our position is that 24 hour opening is inappropriate for the locality and we presented evidence that the policing of South Shields and the wider borough is already thinly spread and therefore adding complexity and longer opening does potentially undermine our ability to serve your community. The applicant's insistence that the problem isn't happening on their premises is partial and disregards any wider community concerns that arise from gambling. In much the same way as Blackstone said that ignorance of the law can be no defense because all men can claim it, any premises could, by simply not reporting problems, demonstrate it doesn't have problems, it would be a false position but it would satisfy oversight.

The wider implications of problematic gambling and the reach and impact that has on families and crime and disorder is a primary concern for us, particularly in a cost of living crisis. We have consistently expressed concern about the contribution of land based gambling venues to the wider problems and there concentration around areas of deprivation and we consider the expansion of the gambling offering is untimely and inconsonant with the current challenges our communities face.

We understand the Planning Authorities need to try to find a balanced response but we maintain our objection to the planning application.

Assessment

The main issues relevant to the assessment of this proposal are the;

- Principle of development;
- Impact on the promotion of healthy and safe communities; and
- Impact on amenity;
- Impact on highway capacity and road safety

Principle of development

The principle of development has been established as acceptable through planning permission ST/1045/20/FUL. As such, it is considered that the proposed use accords with LDF Core Strategy Policy SC2 and Policy SS7 of the South Shields Town Centre & Waterfront Action Plan, as well as Paragraph 85 of the National Planning Policy Framework. This is also giving weight to the potential loss of the retail unit to a different commercial, business or service use under permitted development rights granted by Class E of the Use Classes Order 1987 (as amended).

Promoting healthy and safe communities

Paragraphs 92 and 130 of the NPPF makes clear that planning decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Furthermore, the NPPF states that *'policies... and... developments should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and*

their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security'.

Northumbria Police's Designing Out Crime Officer was consulted on the proposal and has raised concerns in relation to the 'Full Observation Report' submitted by the applicant in support of the proposal. Within the report it is summarised that observations were carried out at the site over a 27 hour period in May 2022, and from these observations it was concluded by the consultant that "the premises operating 24-hours a day will not increase anti-social behaviour, noise or any other crime and disorder that would have a negative impact on nearby residents, the environment, local infrastructure or wider local community."

The Designing Out Crime Officer does not accept from a narrow view of King Street for 27 hours in May that a conclusion can be reached about the wider local community of South Shields. The Officer considers the Neighbourhood Inspector for the B1 Neighbourhood is better placed to judge what has an impact on South Shields, and the Inspector's view is, along with their immediate predecessor, that "the night time economy in South Shields is managed by the neighbourhood policing teams. They finish duty at midnight on all days with the exception of Saturday (the busiest day), when they work until 3am. After those times the Town Centre becomes the responsibility of the 24/7 response shifts. The response teams have the whole of the borough of South Tyneside to police, an already busy and demanding area. The prospect of a premises extending the licensed hours in the Town Centre would cause a number of problems in terms of responding to incidents and providing a service to the community."

The Officer goes onto suggest that trying to understand the crime context of an area from observations on one street and on just three time limited visits is not the basis for assessing year round opening of a land based gambling venue. However if the demand on policing is considered in line with the 27 hour period outlined in the report, on the Thursday night (26 May 2022) the Policing Team dealt with 31 incidents, on the Friday night (27 May 2022) the Policing Team dealt with 29 incidents, and on the Saturday night (28 May 2022) the Policing Team dealt with 23 incidents. This is a total of 83 incidents in a 27 hour period. Had the observations been carried out the week before this would have been 111 incidents, and the week after would have been 119 incidents.

The Officer goes onto explain the negative societal impacts of gambling, which has also been raised by a ward Councillor. It is also noted a Bingo licence has been granted at the site, which allows for 24 hour use of gaming machines. The Council's Public Health Team concurs with the comments raised by Northumbria Police, whilst the Community Safety Team also considers the proposal would likely impact on the Police's operations as there are no other premises in King Street operating 24 hours a day. The Licensing Team have also commented noting there are only two premises in South Shields town centre with a 24 hour licence, the ASDA Supermarket at Coronation Street and the petrol filling station at Crossgate.

In response to the comments made by Northumbria Police and other consultees, the applicant's agent has provided a rebuttal statement. The agent considers the response from Northumbria Police is predominantly fixed on general crime statistics for the area as a whole and there is no technical evidence submitted suggesting a correlation between the operator's venue opening 24 hours and an influx in crime in this part of South Shields. They also do not consider the number of incidents in this area can be used as a reason for refusal / objection as they do not involve the application site. Finally, the agent notes low levels of reported offences at King Street between February and April 2022, with only seven offences recorded, none of which are associated with the application site.

The agent has also provided an example of a recent decision with the Sandwell Metropolitan Borough Council area, where the proposed removal of a restrictive hours condition allowing 24 hour operation for an AGC was approved, and a separate decision from the Birmingham City Council area, where the proposed removal of a restrictive hours condition allowing 24 hour operation was approved on a one year temporary basis in order to monitor and review activity. The agent has also suggested whether the granting of a temporary planning permission for one or two years would be suitable.

As stated above, no crime figures appear to relate directly to the site in question. The site is also not currently operational between midnight and 8am, therefore there would be no crime figures relating to the premises between these hours in the first instance. After midnight Sunday-Friday and 3am Saturday, the police response team have the whole of the borough of South Tyneside to police. Northumbria Police have confirmed the prospect of a premises extending the approved hours in the Town Centre would cause a number of problems for them in terms of responding to incidents and providing a service to the wider community in the South Tyneside borough overnight, and the Council's Community Safety Team have raised similar concerns in respect of the impact on Policing. However, the operational needs and staffing availability of the Police constabulary can only be afforded limited weight in the assessment of this planning application. It is also noted there are no specific policies at local or national level in relation to gambling premises or their restriction.

Given all of the above and the absence of any existing instances of crime and disorder at the site, it is considered appropriate in this instance to impose a condition allowing unrestricted hours at the site for a one year temporary period. This would then allow the Local Planning Authority opportunity to review the situation and whether the retention on a permanent basis within any future planning application is appropriate. It is considered appropriate for the condition to require the applicant/agent to confirm by email/letter to the Local Planning Authority the date of the commencement of the one year temporary period. This will ensure a full one year temporary period can be monitored, and so that any further planning application for unrestricted hours on a permanent basis is not assessed with significantly less than one year's unrestricted hours which may skew crime and disorder figures for the area. It is also not considered best practice for temporary planning permissions to be granted on more than one occasion, and the above approach would allow the site to operate with unrestricted hours for a full one year temporary period following the applicant/agent's notification to the Local Planning Authority.

Subject to such a condition, it is considered the proposed operation of the premises on a 24 hour basis for a temporary one year period would be appropriate as a trial run is needed to assess the effect of the development on the area in accordance with the Local Development Framework Core Strategy Policy SC2, Policies SS1, SS7 and SS8 of the South Shields Town Centre & Waterfront Action Plan and the National Planning Policy Framework.

Impact on amenity

Policy DM1(B) requires a development to be acceptable in relation to any impact on residential amenity. There are no residential properties above the unit or to either side. As highlighted, the proposed change of use would not include any extension or other external alteration of the building. No objections have been received from Environmental Health in relation to noise or the submitted noise assessment, as there is some significant distance to the closest residential receptors.

Taking into account the town centre location and existing commercial use of the site (were the unit to be occupied by a retail business), as well as the compatible surrounding land uses and substantial separation distance to the nearest residential dwellings, it is not considered that the development would result in material harm to residential amenity and would accord with Policy DM1 (B) of the South Tyneside LDF, and the requirements of the NPPF.

Impact on highway capacity and road safety

The unit is sited on a pedestrianised section of King Street within a sustainable location within South Shields Town Centre, with good access to public transport, as well as existing nearby public car parks. Deliveries and servicing take place to the rear of the unit (matching the arrangements for other businesses along this section of King Street). No change in this arrangement is proposed by this Section 73 application. Taking the above into account, it is therefore considered that the proposal would be acceptable in highways terms and would be in accordance with LDF Policy DM1 (G).

Conclusion

Subject to the imposition of a condition limiting the unrestricted use of the premises to a one year temporary period to assess the effect of the development on the area, it is concluded that the development would in accordance with the relevant Local Development Framework policies and the requirements of the NPPF. In assessing this application due regard has been had to the requirement of section 149 of the Equality Act 2010.

Recommendation

Grant Permission with Conditions

Conditions

- 1 The development to which this permission relates must be commenced not later than three years from the date of this permission.

To ensure that the development is commenced within a reasonable period of time from the date of this permission and in accordance with Section 91 of the Town & Country Planning Act 1990.

- 2 The permission hereby granted (to extend the opening hours of the existing use of the premises as an Adult Gaming Centre to 24 hours a day, 7 days a week) is limited to a temporary one year period commencing from the date on which the applicant/agent has informed the Local Planning Authority in writing of the commencement of these extended opening hours.

A trial run is needed to assess the effect of the development on the area in accordance with the Local Development Framework Core Strategy Policy SC2, Policies SS1, SS7 and SS8 of the South Shields Town Centre & Waterfront Action Plan and the National Planning Policy Framework.

Informatives

- 1 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework to seek to approve applications for sustainable development where possible.
- 2 The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Case officer: Nick Graham
Signed: N. Graham
Date: 25/11/2022

Authorised Signatory:
Date: