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Planning Department
South Ayrshire Council
County Buildings
Wellington Square
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December 2023

Our Ref: 23/7317

Dear Sir/Madam

Ground Floor 244-246 High Street, Ayr, KA7 1RL

This planning application seeks full planning permission for the change of use of the ground floor of 244-246 High Street, Ayr from a vacant Class 3 unit to an Adult Gaming Centre (AGC) (Sui Generis) (SG) use to allow Merkur Slots Ltd (UK) to occupy the unit. Minor external rectification works, and advertisement consent is also sought for 1no. externally illuminated fascia sign; 1no. externally illuminated projecting sign and internal vinyl is also sought.

Application Site and Surroundings

The application site comprises the ground floor of 244-246 High Street in Ayr Town Centre. Situated in a sustainable location within the town centre. The site is a former Café (Class 3), and the unit has sat vacant since March 2020 (over 3 years). The predominant use of the area is retail however there are a variety of other commercial uses and late-night uses within the town centre.

As per the Ayr Central Outstanding Conservation Area appraisal, the property is not listed, but does fall within the Ayr Central Outstanding Conservation Area.

Proposals

The proposals concern the ground floor of 244-246 High Street, seeking the change of use from a vacant Class 3 unit to an AGC. The existing entrance doors will serve the new AGC.

Advertisement consent is also sought for 1no. externally illuminated fascia sign; 1no. externally illuminated projecting sign and vinyl.

Planning Policy

South Ayrshire has formally adopted its Local Development Plan 2 (LDP2). The LDP2 (August 2022) replaces the Local development plan (2014) and the Town Centre and Retail Local Development Plan (2017). Together, NPF4 and SPP, applied

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at the national, strategic and local levels, help the planning system to deliver the vision and outcomes for Scotland, and will contribute to the Scottish Government's central purpose. Therefore, associated policies are also material in the determination of this planning application.

The site falls within the Core Shopping Area of Ayr Town Centre.

LDP policy 'town centre' (guiding land use) states that ground floor uses should predominantly be made up of shops (class 1) however, there is scope for different uses whereby criteria (c, d and e) are satisfied. For reference, such criteria is as follows:

c) Keep a full and attractive window display

d) do not negatively affect the vitality and viability of the shopping centre or the surrounding area

e) do not result in an undesirable concentration of uses, or 'dead fronts'.

In response to such criteria, the frontage would be of a high visual quality, and we recognise the Council's objective of ensuring the shopfront remains active. Merkur shopfronts are typically active, and this has been commented on by a number of Inspectors at appeal. Comments include:

"Evidence shows that the display screen would provide moving and engaging images whilst maintaining otherwise unobstructed views into the unit's interior." – Appeal reference APP/W0734/W/21/3289652

"The appellant has indicated that the window display would include a television to create interest and activity. I am satisfied that this approach would create interest along the street frontage." – Appeal reference APP/N5090/W/21/3270129

When looking at the proposals in this instance, the change of use would result in a unit that would be more active than a number of existing units along high street (both operational and vacant).

AGCs typically operate 24-hours and that is proposed for the new AGC at the application site. The surrounding area is mixed and has an established night-time economy, notably comprising restaurants, bars and pubs. Given the context of the site, there will be no significantly adverse impacts provided the rectification works to the property outlined in the assessment are implemented. Based on this, proposals have satisfied criteria c and e.

With regards to criteria d and e, a robust marketing exercise was undertaken by Culverwell, including numerous mailshots of the property particulars to all active national agents as well as direct approaches to all potential targeted retailers and occupiers who may have considered this opportunity. The premises have been listed the agents' website as well as other online marketing websites. The agents have disclosed that retail and restaurant/hot food operators have been targeted but were not able to secure any interest. Demand for local high street locations since Covid has remained limited and despite our best efforts we have not secured any interest from these sectors, resulting in no interest.

The unit is vacant, and the change of use would not compromise the vitality and viability of the city centre. The introduction of an AGC at this location will be in place of a vacant unit and will implement a use that is already established in this area of Ayr. Like any other retailer/leisure operator, key factors such as footfall, competitive presence, demand and overall cost of running an outlet help operators decide where to open new premises. Therefore, the change of use in this instance will contribute to maintaining and enhancing the diverse economic mix within Ayr; aligned with local policy and national policy.

It should also be noted that the South Ayrshire's development plan does not define the clustering of AGCs or indicate the threshold of what would be an 'undesirable' concentration. The Sui Generis AGC is considered to make a positive contribution to overall diversity of the centre as it is a Sui Generis use that would provide an active frontage.

A recent Planning Appeal Decision in LB Hounslow discusses 'over-concentration' of uses, and the impact of other uses within a locality.

Paragraph 16 of the Inspector's decision letter states that; *"My attention has been drawn to the presence of four betting shops close to the site, all of which I observed during my site visit. 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 similarities between them, planning permission is required to change from a betting shop to an AGC or vice versa. Furthermore, my attention has been drawn to a range of other differences between the uses including the types of gaming machines permissible, the mix of activity within each of them and opening hours"*.

Based on the above, it has been demonstrated that there is no interest from acceptable uses and the fact the unit has been sat vacant for over 3 years (since March 2020), the site is no longer suitable for the previous use as a café. As per Policy 27 of the NPF4, Development proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses, will be supported. Proposals will also be supported whereby significant footfall will be generated (including leisure uses).

AGCs are recognised town centre uses and are common town centre uses that complement retail and service uses and help to contribute to a centres evening and night-time economy. The proposed AGC will bring a vacant unit which has not been contributing to the local economy back into use and return activity to the frontage which is a significant benefit to this part of town centre. The introduction of the proposed AGC use will also result in additional benefits, including increased footfall, contributing to linked trips and the creation of 12 new full-time jobs. In this respect, the new use will clearly complement the vitality and vibrancy of the centre, serving the local community within this part of the town centre and will contribute towards the vitality and viability of the centre. As a result, the introduction of an AGC in this location will support day-time and evening economies, whilst not undermining the role of retail core.

Merkur Slots Ltd (UK) commissioned ESA Retail, an independent survey company, to carry out footfall, pedestrian flow and linked trip surveys at three of their trading AGCs across England. The result can be seen within the submitted report and clearly demonstrates that Merkur AGCs are entirely appropriate and complementary uses within primary retail areas, which often have higher footfalls than some traditional Primary Frontage retail units. The nature of high streets has changed. Merkur AGCs attract people into centres, generate good levels of footfall, maintain high levels of pedestrian flow and generate linked trips.

To provide context, data was collected for the two units located either side of the AGC, so five units were surveyed in total. The frontages surveyed comprise a variety of independent and national operators and were predominantly retail (former A1 units). At each location, the AGC was either the busiest or second busiest in terms of the total number of customer movements. At High Road, Wood Green, London. Here, the AGC was adjoined by a Jewellers and a Clothes shop. Results concluded that Merkur recorded the most people entering and exiting the premises (103 people), whereas the Jewellers (66 people) and clothes shop (42 people) recorded less than the AGC combined. Therefore, it is clear that the introduction will not discourage pedestrian footfall towards retail uses in the vicinity and the introduction of an AGC would simply improve the vibrancy of the high street and accord with the NPF4 and adopted local policy.

Overall, the principle of the proposed change of use is entirely acceptable and the proposal will protect and enhance the vitality and vibrancy of this part of Ayr. It could also trigger inward investment and increase the attractiveness of nearby vacant units to potential occupiers.

Amenity

AGCs typically operate 24-hours and that is proposed for the new AGC at the application site. The surrounding area predominantly retail, but has a mix of uses that established night-time economy, notably comprising restaurants, bars and

pubs. Given the context of the site, there will be no significantly adverse impacts provided the recommended works to the property outlined in the assessment are implemented.

It is important to consider that Merkur Slots' noise levels are generally very low and impacts on disturbance to surrounding uses are effectively mitigated and minimal. For example, as set out in the submitted brochure, only background music is played within venues (similar to shops) and there are no tannoy systems. Further, the late-night customer base is predominately late shift workers looking to relax and larger groups are very rare due to the offer within the AGCs. As such, the nature of the use proposed would not result in adverse noise in either the day or night-time hours and the use is appropriate to the busy high street context and complies with local plan policy

Notwithstanding, a noise assessment has been prepared which includes an assessment that is conducted throughout the venue, whilst also considering potential impacts on the residential units directly above the unit, which concludes that there will be no significant adverse impacts in full accordance with Para. 27 of the NPF4, provided the recommended works to the property outlined in the assessment are implemented. These recommendations are outlined fully in appendix D of the submitted noise report. The recommendations will be implemented to ensure noise disturbance is prevented, meaning the limit of NR20 will be achieved and the site would be suitable for 24-hour operation, ensuring compliance with national policy.

As well as this, table 12 of the submitted noise report presents source level measurements made within 10 other active Merkur Slots premises to demonstrate how operational noise levels within Merkur Slots venues across the UK do not change in any significant way with location. Again, this demonstrates the suitability of 24-hour operation.

Well Managed Uses

Within the noise report, an assessment captures customer behaviour at an existing site in Hull; Boston; Cambrwell; Boston; Carshalton; Hackney and Dudley which all operate 24 hours. The assessment makes a number of salient observations, including that patrons were typically alone or in a couple or small group and normal-level conversation was the only sound recorded which occurred infrequently people occasionally stood outside to smoke and had brief conversations at normal speech level with no shouting or otherwise anti-social behaviour. The behavioural patterns of patrons that were detected by the noise consultant indicate that patrons do not typically congregate outside of the application site (unlike takeaways, pubs etc) and therefore not impeding local amenity. This evidence solidifies further compliance with local policy and supplementary planning guidance.

The submitted Merkur Slots brochure also demonstrates the following :

- AGCs do not have (and have never had) the Fixed Odds Betting Terminals that betting shops had
- The machines offer low stakes of between 10p and £2 – the average stake from customers is 30-40p
- A large number of Merkur's AGCs contain bingo machines and tablets
- 48% of customers are female
- A 'Think 25' entrance policy is operated at venues (nobody under 18 years old will be allowed entry)
- Complementary refreshments, teas and coffees are provided
- AGCs are where people go to spend their spare change, have a game of bingo and enjoy their favourite pastime (these machines have been around for many years)
- Customers visit on their own or in couples – large groups are rare

- The customer base after midnight is predominantly the local entertainment workforce and shift workers who like to relax after their busy shifts (hence requirement for flexible hours)
- The machines generate low levels of noise, only background music is played (similar to shops) and there are no tannoy systems
- Merkur Slots have never had an operational licence revoked.

Given the nature of the proposal and the commercial context of the site, 24-hour opening is considered acceptable in this location.

To provide further reassurance, Appendix F of the submitted noise report details an operational management plan. Key measures include:

- The main entrance doors will not be fixed or propped open at any time whilst the premises is trading and there are customers in the venue.
- Customers wishing to smoke will be asked to do so as quickly as possible and in a responsible and quiet manner.
- Individuals who are deemed to be under the influence of excessive alcohol shall not be allowed to enter the premises.
- A notice will be placed that is visible from the exterior of the premises stating that drinking of alcohol directly outside the premises is forbidden and that those who do so will be banned from the premises.
- Customers will be reminded to respect neighbours when they leave.
- Staff, on request, will provide relevant information to customers who require a taxi or directions to the nearest station or bus stop.

The applicant is willing for the OMP to be conditioned as part of any forthcoming decision.

Ayr Central Outstanding Conservation Area

The site falls within the Ayr Central Conservation Area. This conservation area was originally designated in 1969. These boundaries were revised in 1976 and 1980. Article 4 Directions were approved on 22 March 1977 and revisions were approved on 11 February 1982. A control of Advertisements Direction was approved on 27 April 1983. The application site falls within the 'High Street' character area, which comprises the full length of High Street and its continuation in Kyle and Alloway Streets, along with the remaining historic back lands, including Newmarket Street.

The architecture of the high Street and its surroundings comprises a mixture of tenements and Ayr's main retail units. These have predominantly been redeveloped in the 19th Century and the 20th Century.

Within conservation areas such as this, local policy states that new development should preserve and enhance the character and appearance of South Ayrshire's conservation areas and their settings. This should include the appropriate layout, design, materials, scale and siting of development affecting buildings and structures located within a Conservation Area.

In recent times the Council have approved modern advertisement schemes along High Street, including the application site (planning app ref: 20/00398/ADV) whereby internally illuminated adverts have been accepted.

Advertisement

The proposal seeks to install new signage at the ground floor level only, which will be occupied as 'Merkur Slots'. The proposals for 244-246 High Street are fully annotated on the submitted drawings.

The proposed signage consists of 1 no externally illuminated fascia sign and 1 no externally illuminated projecting sign to match RAL 9005 Satin Black. The letters will be a maximum 250mm high, consistent with the lettering size seen on adjacent premises.

The proposed signage associated with the AGC comprises of individual affixed 'Merkur' and 'Slots' letters, alongside a sun logo on the Timber fascia sign, which will be prepared and decorated to match RAL 9005 Matt Black. The lettering will be internally illuminated, as will the sun logo. Lettering will be externally illuminated via Portland LED Ecolux mini trough lighting above the lettering and log, with luminance levels not exceeding 250cdm². It should be noted that trough lighting will be the full width of the fascia sign and a red underscore in rimless powder coated aluminium to match RAL 3020 (red) satin finish will be under the lettering.

The projecting sign will be fabricated from Timber and affixed by an aluminium bracket. A self-adhesive 'Sun Logo' will be applied to both faces. The faces will be powder colour coated to match RAL 9005 Satin Black. Similarly, the projecting sign will be externally illuminated by trough lighting and luminance levels will not exceed 250cdm². Measurements have ensured that the projecting sign is at fascia level and 3.02m above ground level to adhere to adopted local criteria.

The provisions of Scottish Planning Policy are considered to be relevant. Scottish Planning Policy (SPP) states that Conservation Areas are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Their designation provides the basis for the positive management of an area. Proposals are expected to preserve or enhance the character and appearance of conservation areas. Proposals that do not harm the character or appearance of conservation areas should be treated as preserving its character or appearance.

Strategic Guidance Policy 1 Following on from the Policy Principles, when assessing the acceptability of an advertising/signage display, the Council will not be supportive of proposals where it considers:

- a) That the cumulative effect of a number of adverts/signs on a property or within a locality result in advertising clutter;
- b) That the effect of any illumination used on advertising/sign displays, particularly on the locality neighbouring property and especially residential property, is detrimental to amenity;
- c) That the advertising/ signage does not respect the overall design of the property, particularly in circumstances where the property retains its original design;
- d) That the advertising/ signage may cause driver distraction or obstruct vision;
- e) That the advertising/ signage may obstruct or impede pedestrian access or pedestrian flow;
- f) that the advertising and signage on listed buildings, within the curtilage of a listed building, or in a conservation area does not protect or enhance the character or appearance of the building itself and/or the wider locality.

Guidance Policy 4 South Ayrshire Council's Guidance on Advertisements and Commercial Signage relates to projecting signs on ground-floor commercial premises in conservation areas, and states that:

- a) No more than one projecting sign shall be permitted on any frontage

- b) Projecting signs should be at the original fascia level.
- c) Projecting signs shall be a minimum of 2.6 metres above ground level and be a minimum of 50cm from the rear of the kerbline edge;
- d) Projecting signs should generally not exceed 0.5 square metres in area or extend more than 1 metre from the building on which they are located unless the location, scale, design and function of the building suggest a larger sign may be acceptable;
- e) Any illumination shall be by means of a single lamp trough light extending over the full length of the sign and painted out to match the background.
- f) Any illumination shall be unobtrusive; and where achieved by an internal illuminated signage panel, the panel shall not be of excessive depth.

Guidance Policy 5 of South Ayrshire Council's Guidance on Advertisements and Commercial Signage relates to fascia signs on ground-floor commercial premises in conservation areas, and states that:

- a) Fascia signs should be at the original fascia level with no advertising at sub fascia level or on columns or pilasters;
- b) Additional non illuminated fascia type signage or individually fixed lettering may be permitted on gables /rear elevations where public access or window displays are also located;
- c) If the sign is in the form of a panel rather than individual letters, then the panel should cover the whole fascia within the pilasters, where they exist, but not extend over a common close entrance;
- d) Fascia panels should be of minimum depth and have a matt, non-reflective finish;
- e) Fascia panels should be affixed to the original fabric of the building. The layering of fascia panels on top of existing fascia panels or lettering is unlikely to be considered acceptable;
- f) Lettering/graphics should not exceed more than two- thirds of the height of the fascia.
- g) The use of raised/profiled lettering of an appropriate return profile (depth) individually fixed onto building frontages, or onto a plain fascia panel may be acceptable;
- h) Illumination, where proposed, shall be unobtrusive and only be by means of individually illuminated letters or by external trough lighting, the trough extending over the full length of the fascia and painted out to match the background.

When considering the above criteria, it is clear that advertisements have been meticulously/sympathetically considered to ensure measurements and type of illumination are acceptable and are similar to that previously approved elsewhere within the conservation area. For instance, the adverts approved previously at 244-246 High Street in 2020 (Planning app ref: 20/00398/ADV) have authorised illuminated signage. Therefore, whilst external trough lighting is accepted via criteria h of Policy 5, proposals in this instance will not set a precedent.

The proposed adverts fully accord with local policy, resulting in no harm to surrounding residents, amenity or highway safety. The adverts have been well designed and are sympathetic to the commercial context of the site, making positive alterations to a presently disused shop front. On this basis the design of the signage proposals is acceptable and consistent with other

premises' signage schemes recently approved across the Core Shopping Area and the Ayr Central outstanding Conservation Area.

Overall, the signage will have no impact on residential or neighbouring amenity and is located in a position that will not cause undue harm on public safety, therefore compliant with Local development plan policies, as well as both the Design Guidelines for Advertisement and Commercial Signage (particularly policies 1, 4 and 5) and the Ayr Central Outstanding Conservation Area Appraisal (October 2008).

Shopfront

Minor external alterations are proposed and can be seen via the proposed shopfront plan submitted. These simply include like for like replacement' repainting and retiling. Works proposed are deemed sympathetic and in accordance with both the requirements of local policy, particularly guidance set out within the Ayr Central Outstanding Conservation Area Appraisal.

Summary

The principle of the proposed change of use is entirely acceptable and the proposals will protect and enhance the vitality and viability of this part of the centre. The proposal involves the bringing back of a vacant unit into beneficial/commercial use, which will trigger a number of economic benefits, including footfall, linked trips, new jobs and assist in diversifying the centre's offer. Given the site's inertia and its lawful use (non-retail), the proposals will have a neutral impact on the retail offer.

The proposals therefore comply with local and national policy, it is therefore respectfully requested that the application is approved without delay.

Planning Submission

- Site Location Plan
- Block Plan
- Existing Ground Floor Plan
- Proposed Ground Floor Plan
- Existing Signage Plan
- Proposed Signage Plan
- Footfall, pedestrian flow and linked trip surveys
- Noise Report
- Company Brochure

Yours sincerely,

Planning Potential

Harrogate

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