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Exeter City Council
City Development,
Exeter City Council,
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July 2024

Our Ref: 24/7624

Dear Sir/Madam

Ground Floor 47-48 Sidwell Street, Exeter, EX4 6NS

This planning application seeks full planning permission for the change of use of the ground floor of 47-48 Sidwell Street, Exeter, from a vacant Class E unit (former restaurant/takeaway) to an Adult Gaming Centre (AGC) (Sui Generis) (SG) use to allow Merkur Slots Ltd (UK) (formerly Cashino Gaming) to occupy the unit.

Application Site and Surroundings

The application site comprises the ground floor of 47-48 Sidwell Street, Exeter and is situated in a sustainable location within the Exeter City Centre. The site is a former restaurant/takeaway (E), and the unit has sat vacant since June 2023.

The site falls within the secondary shopping area and secondary shopping frontage. The site currently sits in between a fresh food market (retailer) and a Dominoes takeaway. The surrounding area consists of various retail and commercial operators.

The property is not statutorily or locally listed, and the site does not fall within a conservation area.

Proposals

The proposals concern the ground floor of 47-48 Sidwell Street, seeking the change of use from a vacant restaurant (Class E) to an AGC (Sui Generis).

It should be noted that access to the unit will remain at the front of the unit (Sidwell Street).

Planning Policy Context

Principle of Development

Managing Director
Helen Cuthbert

Directors
Stuart Slatter | Claire Temple | Alastair Close
Dan Templeton | Elliot Jones | Katie Turvey

Consultant
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Associate Directors
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Currently the local development plan comprises the Exeter Local Development Framework Core Strategy and The Exeter Local Plan First Review (1995-2011). The key policy assessment with regards to this application is policies S6 'Amusement Arcades' and S3 'frontages'.

As mentioned, the site falls within a secondary shopping area. Within these areas, Policy S3 seeks to protect A1 (retail uses) stating that the change of use of Ground Floor Retail will not be permitted in the Primary and Secondary areas in the City Centre and in District and Local Centres if it would harm the vitality and viability of the centre.

It is important to note that the new E use class came into effect on 1st September 2020. This has created a flexible system for town centre uses that can better reflect the diversity of uses on high streets and give businesses greater scope to adapt and diversify to meet changing demands. The future success of town centres is no longer all about retail. Uses which provide experiences and services are just as important, if not more. In light of these significant changes, town and city centre/shopping policies that predate the E use class are now out of date and cannot be afforded the same weight when assessing city centre proposals.

Whilst the proposed AGC is a sui generis use, which does not fall within Use Class E, the new Order is clearly material to this matter in respect of how local policy can protect retail uses, as a variety of uses can now occupy retail units without the need for planning permission.

Policy S3 is now out of date and any conflict with it cannot reasonably be used to refuse planning permission. Regardless, the change of use in this instance will not result in the loss of retail and an AGC will add to the vitality and viability of the secondary shopping area. AGCs are recognised town centre uses within the National Planning Policy Framework (NPPF) and are common town centre uses that complement retail and service uses and help to contribute to a centre's day-time, evening and night-time economy. Merkur Slots will continue to contribute towards the vitality and viability of the Secondary Shopping Area and the town centre as a whole.

Even though the weight given to policy in A1 uses is diminished considering new E Class, the proposal will ensure a balance of shops and other uses which are suitable in shopping streets and there will still be a good mix of uses, as per supporting text paragraph 5.29 of the local plan. For instance, along this frontage of the application site, 82% of uses are of class E use, of which 53% are in A1 use. Therefore, the change of use will not harm the vitality and viability, as per supporting paragraph 5.32 of local plan.

As per supporting paragraph 5.33 of the local plan, a key consideration is the level of pedestrian activity associated with it. Related to this point, 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 results can be seen via the submitted ESA retail report, which clearly demonstrates that Merkur AGCs are entirely appropriate and complementary uses within primary retail areas, which often have higher footfalls than some traditional Primary and Secondary 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, clearly demonstrating their appropriateness in main frontages within city /town centres.

The proposals will also bring a long-standing vacant unit back into active use and generate 6-12 new jobs.

Based on the above, an AGC at this location is in full accordance with the council's overarching policies for Exeter City Centre. The proposals will protect and enhance the vitality and vibrancy of this part of the Secondary Shopping Frontage and city centre as a whole.

Policy S6 relates specifically to adult gaming centres, stating that they will not be permitted:

- a) In the Primary Shopping Area of the City Centre
- b) In the Cathedral, Castle and Quayside Tourist Areas
- c) Close to housing, Schools, Churches, Hospitals or Hotels;

and generally where they would harm visual amenity, cause noise, disturbance and where they would have the appearance and setting of conservation areas and listed buildings (local and nationally). Prior to the formal submission of this application, due consideration has been given to this adopted policy. For instance, the location and designations of the application site (47-48 Sidwell Street) is not contrary to the requirements of S6. Resultingly, the proposed change of use fully accords with the policy and adheres to all criteria listed within S6.

The Local Planning Authority must assess any proposal for an Adult Gaming Centre (AGC) on its own merits, on a case-by-case basis. An AGC provides a different offer to customers than that of a traditional amusement arcade, which aims to provide an attraction for families. Many resort towns are faced with applications for the 'new breed' of amusement centre offering a closed and relatively discreet use in shopping areas.

There is a distinction between the open fronted arcade style of amusements designed to attract holiday makers and the alternative adult gaming centres, which offer a modern form of unobtrusive adult entertainment catering for shoppers and passers-by rather than seeking to attract holiday makers/ visitors with brash, noisy, open fronted arcades. Based on this, it is considered that the criteria set out within Policy S6 are not material to the consideration of an AGC.

Amenity

AGCs typically operate 24-hours, and this is proposed for the application site.

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 worst-case noise assessment has been prepared concluding that there will be no harmful noise impacts from 24-hour operation on the nearest residential premises directly above in full accordance with Para. 185 of the NPPF, provided the rectification works to the property outlined in the assessment are implemented. These rectification works which relate to noise breakout from the building are outlined in Appendix C of the submitted noise report. All recommendations will be implemented meaning the limit of NR20 will be achieved and the site would be suitable for 24-hour operation, ensuring compliance with Local Plan policy S6.

As part of the noise assessment, data has been collected from Merkur's operational venue was undertaken during the most noise sensitive period of the night (after 2am) to determine if noise impacts were occurring and how patrons behaved. Data conclude that both external and internal noise impacts are considered highly unlikely to occur. Case studies from 10 other Merkur Venues have been included regarding internal noise levels and external noise levels (comings and goings and noise from patrons smoking outside), demonstrating Merkur Slots customers are typically quiet.

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
- Merkur's AGCs offer Bingo
- 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 E 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. Based on the above, proposals are in full accordance with local policy S6.

Conclusion

The principle of the proposed change of use is entirely acceptable in planning terms. The proposals will protect and enhance the vitality and viability of this part of Sidwell Street. The proposal involves the bringing back of a vacant unit into

beneficial/commercial use, which will trigger a number of economic benefits, and will allow an established operator to contribute to the Centre. It has been demonstrated through a detailed noise report that proposed 24-hour opening hours will not lead to any harmful impacts.

The proposals therefore comply with local and national policy, it is therefore respectfully requested that the application is approved without delay in accordance with para 11 of the NPPF.

Application Package

In addition to this cover letter, the following documents are submitted in support of the application. The application fee has been paid via the Planning Portal:

- Completed Application Form and Certificate
- Site Location Plan identifying the application site in red
- Existing and Proposed Floor Plans
- Noise Assessment prepared by Archo Consulting
- Company Planning Brochure
- ESA Retail Pedestrian Flow, footfall and linked trips data
- Planning Application Fee

We trust that the information submitted is sufficient for the determination of the application and we look forward to receiving confirmation the application has been validated in due course. Should you have any queries, please do not hesitate to contact us.

Yours sincerely,

Planning Potential

Harrogate