

04 October 2023



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| <b>Title</b>                           | <b>PLANNING APPLICATION REPORT</b>   |
| <b>Ward</b>                            | Abbey  |
| <b>Planning Application Reference:</b> | 230908/FUL   |
| <b>Site Address:</b>                   | 104-105 Friar Street, Reading, RG1 1EP   |
| <b>Proposed Development</b>            | Change of use of 104-105 Friar Street from a vacant Class E unit to an Adult Gaming Centre (AGC) (Sui Generis) (SG)  |
| <b>Applicant</b>                       | Merkur Slots Ltd (UK)  |
| <b>Report author</b>                   | David Brett  |
| <b>Deadline:</b>                       | 11/10/2023   |
| <b>Recommendations</b>                 | Grant planning permission, subject to conditions as follows  |
| <b>Conditions</b>                      | <ol style="list-style-type: none"><li>1. Time Limit – Three Years</li><li>2. Approved Plans</li><li>3. Notwithstanding the provisions of Class 12 of Schedule 3 of the Town and Country Planning (Control of Advertisements) Regulations 2007 (as amended), the non-residential unit hereby approved shall retain 'active window displays' along the length of the frontage, without the installation of window vinyls, roller shutters, or similar which would obscure visibility between the public realm and the unit.<br/>Reason: in the interests of retaining a vibrant and attractive street scene and improving active surveillance, in line with Policies CC7, OU5 and CR4 of the Reading Borough Local Plan 2019.</li><li>4. The noise mitigation specified shall be installed in accordance with the specifications recommended within the Noise Assessment submitted with the application, as prepared by Archo Consulting on 28/06/2023, document reference PR2001_147_FINAL.<br/>Reason: In order to protect the amenity of future occupants of the proposed development in accordance with Policy CC8 of the Reading Borough Local Plan 2019.</li></ol> |
| <b>Informatives</b>                    | <ol style="list-style-type: none"><li>1. Positive and Proactive</li><li>2. Terms and Conditions</li></ol>  |

## 1. Executive summary

- 1.1. Following the deferral of the decision from the September 2023 Planning Applications Committee, the proposal is still recommended for approval subject to the conditions as outlined above.

- 1.2. The proposal would reuse a vacant unit that is part of the primary frontage along Friar Street. The proposal would contribute positively towards the night-time economy and complement existing uses within the vicinity, as well as provide offer an alternative activity to drinking. The application is therefore recommended for approval.

## **2. Introduction**

- 2.1. At your September meeting, consideration of this application for full planning permission was deferred to seek additional information on the following:

- Whether the development would result in clustering of too many similar uses within one area in the town centre in relation to the range and diversity of leisure uses required by Policy CR4 of the Local Plan (paragraphs 5.3.13 and 5.3.14 refer) and whether it would impact the requirement for active frontages in the town centre in Policy CR7 of the Local Plan.
- Whether there had been an active search for other uses for the premises since the closure of the café on the site in March 2023

## **3. The proposal**

- 3.1. This application for full planning permission still seeks the change of use from a Class E unit to an Adult Gaming Centre (Sui Generis Use Class). No external alterations are proposed within this application. The proposed Adult Gaming Centre use would facilitate 'slot gaming', bingo machines and tablets, and the serving of hot and cold drinks (no alcohol).

- 3.2. The following plans have been received (double strikethrough denotes superseded documents):

- Site Plan Rev B
- ~~- Proposed Ground & First Floor – 882-PL-10~~
- Existing Ground Floor Plan and Front Elevation – FRS/RED/01 Rev B
- Existing First Floor Plan – FRS/RED/02
- Application Letter prepared by Planning Potential dated June 2023, reference 23/7039
- Application Statement – Working Together, The Merkur Family
- Footfall, Pedestrian Flow and Linked Trip Surveys
- ~~- Noise Assessment – PR2001\_147\_FINAL~~

Received on 29/06/2023

- Proposed Ground & First Floor – 882-PL-112

Received on 27/07/2023

- Noise Assessment – PR2001\_147\_FINAL

Received on 28/07/2023

- Site Location Plan

Received on 08/08/2023

- Proposed Ground Floor & Shopfront Elevation – 882-PL-16

Received on 05/09/2023

## **4. Appraisal**

- 4.1. The main considerations are:

- Gambling Premises and Similar Uses
- Search for Other Uses for the Premises
- Other Matters

### ***Gambling Premises and Similar Uses***

- 4.2. At the September Planning Applications Committee, further information was requested to determine if there is a clustering of Adult Gaming Centres (AGC). It should first be noted that the Reading Borough Local Plan (2019) does not define the clustering of AGCs or indicate the threshold of what would be an over-concentration of AGCs. The Local Plan does deal with the perceived proliferation of betting shops and payday loan companies under Policy RL4 (Betting Shops and Payday Loan Companies), but AGCs do not fall under the definition of a betting shop or payday loan company.
- 4.3. A recent Planning Appeal Decision in LB Hounslow (Appendix 2) discusses 'over-concentration' of uses, and the impact of other uses within a locality.
- 4.4. Paragraph 16 of the Inspector's decision letter at Appendix 2 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"*.
- 4.5. Supporting text to Policy RL3 (Vitality and Viability of Smaller Centres) at paragraph 4.6.16 of the Local Plan makes the distinction between what is a 'centre use' in Reading and what is 'not a centre use'. The paragraph specifies that certain uses falling within the 'sui generis' category and provides examples. In this instance, the use proposed at 104-105 Friar Street is considered akin to an amusement arcade and betting shop i.e., uses that facilitate gambling (gambling uses). Ultimately, the development is considered to be a compatible 'centre use'.
- 4.6. In the absence of a specific policy relating to an over concentration or clustering of AGCs, a survey of gambling uses within 150m of the proposal site has been carried out. This is to understand the reality of AGCs located within the town centre location, along with other gambling uses. It is recognised that pubs often have gambling machines, however, this survey has focused on uses that primarily focus on facilitating gambling.
- 4.7. There are a total of 91 primary frontage units within a 150m radius of the proposal site and this includes units located along West Street, Oxford Road, Broad Street and Friar Street. Of the 91 units, there are three existing AGCs and one betting shop.



**Map showing the locations of Gambling Uses within a 150m radius of 104-105 Friar Street**

- 4.8. As a result, 4% of the existing primary frontage units within a 150m radius of the proposal site are gambling premises. The proposed use would increase the percentage of primary frontage units operating as gambling premises to 5%. This is considered a small increase and highlights that the use would be experienced amongst a number of other uses within a 150m radius of the site, such as supermarkets, restaurants, pubs, clubs, retail units, barbers and salons.
- 4.9. When further examining the context of proposal site and the land uses in the surrounding area, it is acknowledged that the development would result in a pub (The Hope Tap) that would have an AGC either side. This is, however, considered indicative of the reality of the character of this section of Friar Street which caters heavily towards nightlife, with a kebab shop, gentleman’s club, karaoke bar, restaurant, and night club all within 100m of the proposal site to the east along Friar Street. At this point, it is considered pertinent to reiterate that the Reading Borough Local Plan (2019) does not define what an overconcentration or clustering of AGCs is. The above assessment in paragraphs 4.4 to 4.6 of this report concludes that the AGC use would be experienced amongst a broad range of uses within the radius of 150m, whilst also reflecting the established character of the surrounding area.
- 4.10. This is considered to reflect the description of town centre uses within paragraph 5.3.13, supporting text Policy CR4 (Leisure, Culture and Tourism in Central Reading) of the Local Plan: *“This policy refers to those leisure, culture and tourism uses that are defined as ‘main town centre uses’ in the NPPF, excluding drinking uses, which are covered elsewhere. These facilities will assist in widening the variety of the offer of the centre, and would, in many cases, help to attract a greater range of people into the centre. For that reason, additional uses should be encouraged, and there are substantial opportunities within Central Reading to accommodate leisure and cultural uses, as well as new visitor accommodation. Policy RL2 directs major leisure, culture and tourism*

*uses to Central Reading, and CR1 defines the Central Core as the most suitable part of the centre.”*

- 4.11. Supporting text to Policy CR4 at paragraph 5.3.14 of the Local Plan states: *“In order to diversify uses in the town centre and improve the Centre’s leisure offer, it is important to accommodate leisure, cultural and tourism activities that appeal to a wide range of age and social groups. Leisure and entertainment uses that would contribute to the 18-hour economy will be encouraged, and existing uses maintained. This should include a range of different, yet complementary evening and night-time economy uses to cater for all sections of Reading’s community, and offer alternative activities to drinking.”*
- 4.12. Concerning Policy CR7 (Primary Frontages in Central Reading), the Policy states that, *“Proposals that would result in the loss of A1 or A2 use such that the proportion of the length of frontage within the street in A1 or A2 use falls below 50% will not be permitted, unless the proposal introduces a use that makes a positive contribution to the overall diversity of the centre. 50% of new primary frontages as shown on the Proposals Map should be in A1/A2 use.”*
- 4.13. The last use of 104-105 Friar Street was as a café, which closed in March 2023. On 25<sup>th</sup> June 2020, a Certificate of Lawfulness (Proposed) was granted for the use of 104-105 Friar Street as a coffee shop (application reference 200611/CLP). Condition 1 of the Certificate granted an A1 use for:
  - Internet café, or
  - Café which only serves cold for consumption off site.
- 4.14. As the previous use described falls under the A1 use class (until 31<sup>st</sup> August 2020 and for the purpose of interpreting development rights to 31<sup>st</sup> July 2021, now Class E) the development does have an impact on existing A1/A2 uses along primary frontages within Central Reading. This is because the proposal site is changing from an A1/A2 use, to a non-A1/A2 use. The wording of the Policy, however, concerns development that would result in the proportion of frontages along Friar Street (North and South) falling below 50%.
- 4.15. The percentage of A1/A2 uses along Friar Street (North and South) is already below 50% at 38.2% (Annual Monitoring Report 2021-2022). The loss of the A1/A2 frontage to 104-105 Friar Street would result in the percentage of A1/A2 uses along Friar Street becoming 37.3% (a reduction of 0.9%). As discussed in paragraphs 4.6 to 4.9 above, it is important to consider the variety of existing uses along Friar Street and the wider surrounding area.
- 4.16. It should also be noted that the flexibility of Class E (as of 1<sup>st</sup> September 2020) allows for the change of use of 104-105 Friar Street to uses both suitable and unsuitable for the town centre as defined under Policy CR7, without the need for planning permission. Under Class E the proposal site can freely change to uses that under the previous Use Classes Order were A1 (Shops), A2 (Financial and professional services), A3 (Restaurants and cafés), D1 (Non-residential institutions) and D2 (Assembly and leisure). However, the site can also change to B1 (Office), a use that is not defined as suitable for primary frontages in Central Reading under Policy CR7. It should also be noted that a change of use to a Sui Generis AGC would mean that any proposal to turn the use of the site back into a use defined under Class E would require a new planning permission.
- 4.17. The Sui Generis AGC is considered to make a positive contribution to overall diversity of the centre as it is a related Sui Generis use that would provide an active frontage, with the number of gambling premises within a 150m radius of the site becoming 5% as discussed in paragraph 4.8 above.
- 4.18. To summarise, the Adult Gaming Centre use proposed is still considered complementary to the night-time economy and offers an alternative activity to drinking in accordance with Policies CR4 and CR7 of the Local Plan.

### ***Search for Other Uses for the Premises***

- 4.19. As per section 2.1 of this report, the second reason for deferral was to investigate “whether there had been an active search for other uses for the premises since the closure of the café on the site in March 2023”.
- 4.20. The use of the premises as a café ended on 1<sup>st</sup> March 2023. This planning application was received by the Local Planning Authority on 29<sup>th</sup> June 2023. Officers are not aware of any alternative uses that may have been proposed for the site after the café closed on 1<sup>st</sup> March 2023. There is also no such requirement for applicants to provide marketing information for change of uses from Class E to a Sui Generis use within the town centre.
- 4.21. Concerning the protection of Leisure Facilities and Public Houses, supporting text to Policy RL6 (Protection of Leisure Facilities and Public Houses) at paragraph 4.6.32 of the Local Plan requires evidence to be provided that continuing a Leisure Facility and Public House use is not viable, and that any alternative uses must fulfil a similar role. There is, however, no such policy that resists the loss of cafes.

### ***Other Matters***

- 4.22. As advised within the verbal introduction to this item at the October 2023 Planning Applications Committee, condition 3 (Security Measures) as set out in the October Committee Report for this item has been deleted from the Recommendation for this application. This is because a separate Premises Licence has been approved for the business, which contains conditions relating to the provision and ongoing maintenance of CCTV surveillance both within the premises and along the frontage. The conditions also require the presence of CCTV surveillance to be advertised on site.
- 4.23. Condition 3 as set out in the October report would fail the test for planning conditions (neither necessary nor reasonable) as they are a duplication of conditions set out in the Premises Licence. Condition 3 concerning CCTV details has therefore been removed.

## **5. Equality implications**

- 5.1. Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—
  - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.2. The key equalities protected characteristics include age, disability, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation. It is considered that there is no indication or evidence that the protected groups have or will have different needs, experiences, issues and priorities in relation to this particular application.

## **6. Conclusion & planning balance**

- 9.1 As with all applications considered by the Local Planning Authority, the application is required to be determined in accordance with the development plan unless material considerations indicate otherwise, as per Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 9.2 Officers consider that the proposal complies with the policies in the Local Plan. Any harmful impacts of the proposed development are required to be weighed against the benefits in the context of national and local planning policies, as detailed in the appraisal above. Having gone through this process officers consider that the benefits of the proposal with regards to enhancing the night-time offer of the town and reinstating a

vacant unit within the primary frontage of Friar Street outweighs the low-risk noise and disturbance that may arise from the use. Concerns of problem gambling will be strictly monitored under the separate Licensing regime.

- 9.3 It is considered that officers have applied a suitable planning balance when reaching this conclusion. As such, this application is recommended for approval subject to the conditions as outlined above.

### **Plans & Appendices**

*Appendix 1 - ABB – 230908 – 104-105 Friar Street Committee Report (September 2023)*

*Appendix 2 – Appeal Decision APP/F5540/W/22/3296792*