

Our ref: hk/O/LL/Bury/15.01.24

15 January, 2024

Bury Council
Planning – Development Control
Via Planning Portal

Dear Sir/Madam,

Proposed Change of Use from Class E Commercial, Business and Service use to Sui Generis Adult Gaming Centre (AGC) at 3-5 Princess Parade, Mill Gate Shopping Centre, Bury, BL9 0QL

Planning Policy, Design and Heritage Statement

Introduction

We act as planning consultants to Luxury Leisure (part of the Novomatic Group), a market leading provider of gaming and entertainment venues with over 250 high street and seaside gaming venues in the UK. The Group employs over 2000 staff in the UK and accounts for 22.5% of the UK adult gaming centre market such that it is a highly experienced responsible operator in this market.

The Application Site

The company currently operate long established premises at 47 Market Street. The premises has been in use as an Adult Gaming centre since 1987. This application is submitted to facilitate the regeneration of Bury Market with £20 million support from the Government's Levelling UP Fund. The scheme will involve the development of a new Flexi Hall and enhanced public realm improvements including the creation of improved linkages between Bury Market and the Interchange. To this end, on 31st August 2023 consent was granted for Ref: 69580 for '1. Demolition of buildings and erection of flexible events hall with associated servicing, parking and landscaping; 2. New canopy structure to cover existing outdoor market; 3. Temporary permission sought for area of Bury Market car park to be utilised for site cabins for the duration of the build'.

As such, the applicant's current premises are earmarked for demolition. Following consultation with the council the subject relocation property has been offered which is also in the ownership of the local authority. This application is therefore to establish the principle of change of use. Applications for new signage and shopfront alterations will be submitted under separate cover.

Heritage

The subject property is a modern commercial unit located on the pedestrianised approach to Mill Gate Shopping Centre. Both the existing AGC unit at 47 Market Street and the proposed relocation unit are located within the defined primary shopping frontage of Bury Town Centre. We confirm that the application site is not statutorily or locally listed nor is it located within a defined conservation area. As such any further comment on heritage is not required in line with national planning guidance.

Planning Policy and Assessment

As regards the development plan the current Bury UDP was adopted by the Council on 29th August 1997 and despite its age remains the statutory development plan in force. Bury is a designated sub regional shopping centre where a wide range of uses are supported. Policy S2/2 deals with prime shopping areas and frontages and states –

Within prime shopping areas identified in the Borough's town centres, the Council will seek to maintain retailing (Class A1) as the predominant land use at ground floor level. Proposals for change of use or redevelopment within these areas will be assessed on their merits and by taking into account the following factors:

- the design and appearance of the proposed frontage;
- the maintenance or provision of a display window at ground floor level, where appropriate;
- access for the mobility impaired, where appropriate and through negotiation with the developer;
- whether the proposal will give rise to disturbance or nuisance;

In addition, where a proposal would lead to more than 10% of any identified prime shopping frontage being in non-retail (Class A1) use, the Council will also take into account the following factors:

- the location and prominence of the proposal within the prime shopping frontage;

- **the number, distribution and proximity of other premises in non-retail (Class A1) use or with planning permission for such uses;**
- **the particular nature and character of the use proposed, including the level of activity associated with it.**

The proposed use is a bona fide town centre use which already operates from long established premises on Market Street. The subject proposal is a relocation of a long-established existing town centre use. There will be no increase in the number of AGC uses in the town centre. The proposed use will provide an active ground floor frontage and serve the long established local and visitor customer base. There is no harm to vitality and viability and Class E use easily predominates in the protected primary frontages. Within the subject frontage, 1a (new unit) - 31 Princess Parade (including elevation to The Square), there are 13 commercial units and Class E units easily predominate. The subject frontage measures approximately 109m of which only 4m is in Sui generis use as public house. The remainder of the units are all in Class E use. With the subject proposal in place 15% of the subject primary shopping frontage will be in non-Class E use.

The application site is flanked by Class E uses to either side with 10 Class E units to the east and 1 Class E unit to the west. The primary shopping frontage opposite is also dominated by Class E uses. As such, there is no harm to the vitality and viability of the town centre or the primary shopping frontage.

Recent changes by the Government to the Use Classes Order and permitted development rights legislation now favours a diversity of use in town centre locations with Class E permitted development rights allowing for use, or part use, for all or any of the following purposes—

1. *a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,*
2. *b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,*
3. *c) for the provision of the following kinds of services principally to visiting members of the public—*
 - (i) financial services,*
 - (ii) professional services (other than health or medical services), or*
 - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,*
4. *d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,*

5. *e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,*
6. *f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,*
7. *g) for—*
 - (i) an office to carry out any operational or administrative functions,*
 - (ii) the research and development of products or processes, or*
 - (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.*

The impact of this change in legislation brought about by the long-term decline in traditional high street retailing, which has been turbo charged by the Covid-19 pandemic is that it effectively negates town centre development plan policy on change of use and primary and secondary shopping frontages, with all manner of uses now being acceptable in a town centre location during the day and in the evening without restriction. High streets all over the UK are suffering and traditional retail use is in significant decline. The government now actively promotes an approach where *any* use which increases footfall to a centre should be encouraged even to the extent that office uses are permitted development at ground floor retail sites and primary and secondary shopping frontages have little meaning in planning policy terms. Similarly residential uses are also actively permitted in town centre locations including ground floor commercial premises under permitted development rights. For example, the Insertion of Class MA in Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021, gives no consideration to the impact on the preservation of traditional retail use and which requires only three months of vacancy. It is therefore not possible to control Non-shop Class E uses in town centre locations. The effect of the above and the direction of travel of national planning policy guidance now outweigh adopted development plan guidance on town centre use.

The subject proposal will be a relocation of an established successful town centre business will have a positive impact on the existing shopping frontage. There will continue to be but one Admiral AGC use in this location albeit one that is greatly Improved. Class E uses will clearly easily continue to predominate. There will be no concentration of non-retail uses in this location. Admiral is long established in the town centre and will secure the long-term viable use of the subject property.

The NPPF advises local authorities to grant planning permission where proposals accord with a development plan or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date unless *there is a clear reason for refusing the development which is referenced in the NPPF or any adverse*

impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. There are no specific policies in the NPPF which prohibit the proposed use. Indeed, the general direction of the NPPF is to support diversity and a range of uses. In relation to ensuring the vitality of town centres, competitive town centres that provide customer choice and a diverse retail offer are preferred.

The predominant retail shopping function of the street will remain unaffected. There will be no harm to retail vitality, viability or diversity. AGC's are established *bona fide* town centre uses which add to the diversity and choice of uses in town centre locations and which have no harmful impact on retailing activity. The reuse of the property together with investment in the property and at a time when town centres are in decline ought to be supported.

Internally, there will be no noisy amusement arcade equipment which attracts under 18's and has an impact on amenity. Unlike an 'arcade' which is noisy to attract passing custom of all ages, there is a statutory obligation to exclude under 18's from AGC's. Such AGC establishments are commonly found at the heart of hundreds of shopping centres throughout the UK and are not uncommon even in previously defined primary shopping frontages. Indeed, many shopping centres have more than one AGC in the town centre. There is no evidence that AGC uses have harmed any interest of acknowledged importance. Such uses rely on pedestrian flows and trade successfully in busy town centres and contribute as a complementary use to the overall attraction of town centres to the shopping public. As an acceptable town centre use, AGC's are found in busy locations where there is *even* residential use above or in adjoining properties. The proposed use itself is not an inherently noisy activity nor in relation to the comings and goings of customers. There are no adverse impacts and there is no evidence of any anti-social behaviour being exacerbated by such uses. There is no audible trading noise break-out through the premises shopfront even excluding the masking effects of levels of existing ambient noise in the area.

We should also add that the proposed use is strictly governed and regulated under the council's licensing regime where Bury Council separately as Licensing Authority is legally obliged to take into consideration issues of the prevention of crime and disorder, public safety, the prevention of public nuisance which includes amenity concerns such as noise, threats to community safety, litter, odour, smoke, and light; and the protection of children from harm. The existing premises operates 24hours a day and we seek to continue this operation and attract footfall to the centre during the day and in the evenings. Level access and circulation space in line with Part M of the building regulations is maintained throughout.

For all the above reasons we commend this application for your approval.

Should you require any additional information, please contact these offices in the first instance.

Yours sincerely,

HARIS KASUJI BA MA MRTPI