

GOLDEN TOUCH, 9 WEST STREET, READING, RG1 1TT
SOUTHERN CITY LEISURE LIMITED
PLANNING SUBMISSION

**Application to vary/remove condition under Section 173 of
the Town and Country Planning Act 1990**



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1. Introduction

1.1 This application is for removal of condition 3 (hours of use) of planning permission 160783 (change of use of the premises from a hair and beauty use (mixed A1 retail and Sui Generis) to tanning salon and Adult Gaming Centre (Sui Generis)).

1.2. On 13th September 2016, full planning approval for application 160783 was granted for change of use of the premises at 9 West Street, Reading, RG1 1TT to a tanning salon on the first floor and Adult Gaming Centre on the ground floor, with 4 conditions and reasons set out in the approval document.

1.3. Condition 3 restricted the use of the premises to 0900 - 2200 Monday to Sundays, in order to protect neighbouring premises from unreasonable disturbances.

1.4. A further application, number 108317, to see unrestricted 24 hour use of the premises was withdrawn by the agent on 16th April 2018.

1.5. On 8th May 2017, application number 170391, which sought to remove condition 3 (hours of use) to allow unrestricted 24 hour use was refused. The refusal decision cited that it would result in unacceptable noise and disturbance to the residential amenities of the nearby area. The Case Officer's report in the withdrawn application stated as follows: 'there is no reason to believe that the situation has changed since the condition was applied, therefore no justification to remove the condition. There are a number of residential properties on West Street situated above the shops, and these residents are likely to be

disturbed by noise from people coming and going from the premises, and possible congregation of people outside including smoking if this occurs late at night.’

1.6. This application sets out clearly how the situation has changed since the condition was applied, additional evidence to be considered which has not been submitted with previous applications, and additional conditions proposed by the applicant in order to protect residential amenity from noise disturbance.

1.7. The applicant, Southern City Leisure Limited, is part of the City Gaming Group, which operates Adult Gaming Centres across the UK, and currently operate a large number of Adult Gaming Centres. These premises also have the benefit of an Adult Gaming Centre premises licence, issued under the Gambling Act 2005 by Reading Council, and the applicant will ensure that the operation of these premises complies with both the relevant planning permission and the relevant premises licence.

2. Executive Summary

2.1. This application is significantly and substantially different to the application submitted in 2017 and the application submitted in 2018.

2.2. The premises now have a track record of trading without a single complaint relating to noise either emanating from the premises, or being caused by customers entering or leaving the premises.

2.3. The Admiral Adult Gaming Centre, which is 6 units away from this site, trades 24 hours a day, 7 days a week.

2.4. Reading Borough Council have very recently granted a 24 hour, 7 days a week planning approval for an Adult Gaming Centre at 134 - 135 Friar Street.

2.5. In the application for 134 - 135 Friar Street, concerns expressed by the Environmental Health Officer and Licensing Officer are dealt with, and it is submitted that if similar concerns are expressed then those concerns can be dealt with in the same way in respect of 9 West Street, Reading; albeit Reading Borough Council must accept the evidence relating to 9 West Street, Reading trading without noise issues for several years.

2.6. All businesses operating adjacent to the Adult Gaming Centre at 9 West Street, Reading have been spoken to and have no issues with the application for 24 hour use.

2.7. An adjacent fast food takeaway operates later hours, certainly up to 4am, as experienced by the applicant.

2.8. The applicant has proposed additional conditions which restrict the number of customers entering the premises between certain times, and creates additional control over customers entering and leaving the premises during the later hours which will also negate any concerns that may or may not be expressed.

2.9. The applicant trades other premises 24 hours, 7 days a week in close proximity to businesses and residents, and has no complaints about the use of other premises.

2.10. The concerns previously expressed in 2017 and 2018 with regard to the removal of condition 3 are without any foundation and are unsubstantiated, but the applicant will of course liaise with any authority and work closely with Reading Borough Council as appropriate.

2.11. The Environmental Protection Officer in the 134-135 Friar Street application accepts that the noise level at an Adult Gaming Centre is low enough not to require a noise assessment.

3. The Application Site

3.1. The application site has now operated as an Adult Gaming Centre for several years, and has operated without issues and without a single complaint being made with regard to noise and disturbance.

3.2 It is situated within the designated Reading Central Area and designated Primary Shopping Area, and the surrounding area comprises a mix of uses. On the opposite side of West Street is a large empty office building and an Apart-Hotel. There are short-term residential uses in some of the first floor levels.

3.3 The following are the adjacent units on West Street:

- Ruby Nails and Spa, 1 West Street
- Sew Master, 3 West Street
- Pink Beauty Salon, 4-5 West Street
- Bay's Peri Peri, 6 West Street
- Reading Quality Fish, 7 West Street
- Rooster's Peri Peri, 11-12 West Street
- Fit Cookie, 15 West Street
- The Nail Lounge, 16 West Street
- Celly's Hairstyle International, 17 West Street

- Greggs, 18 West Street
- Fix Teck and Vape, 19 West Street
- Kenya Butchers, 20 West Street
- Phonecare, 21 West Street.

3.4. The applicant has spoken with the operators of **ALL** the adjacent uses. All have confirmed that there are no issues at all with the current operation of the Adult Gaming Centre, or that there are any objections to the application to operate 24 hours a day, and remove condition 3.

3.5. The concern previously expressed in planning decisions and case officers' reports in 2016, 2017 and 2018 is not a concern expressed by the neighbours of the Adult Gaming Centre, who have been operating adjacent to the Adult Gaming Centre whilst it has been in operation.

3.6. There is no noise or disturbance caused at all by the Adult Gaming Centre, and would be no noise or disturbance caused by the Adult Gaming Centre if condition 3 is removed.

3.7. 6 units away from the application site is the Admiral Casino Adult Gaming Centre, situated at 1a West Street and 93-97 and 98 Friar Street. This is a significantly larger unit, which has a frontage both on West Street and Friar Street. This unit operates 24 hours a

day, 7 days a week, as advertised both on the premises and on the internet.

3.8. This Adult Gaming Centre has operated 24 hours a day, 7 days a week for many years, and is permitted to do so by Reading Borough Council.

3.9. Another Adult Gaming Centre use approved and was granted full planning permission, (number 210577) for change of use to an Adult Gaming Centre at 134-135 Friar Street, Reading. These premises are 0.2 miles from the applicant site, if you walk along West Street and turn right along Friar Street. It is also possible to walk down Union Street and Broad Street between these premises.

3.10. In the delegated application report in respect of 134-135 Friar Street , reference is made at paragraph 4.1 to the response being received from Reading Borough Council Environmental Protection Officer which is as follows:

“I am concerned about the potential impact on a joining premises as a result of noise from the proposed use, as it is proposed to operate 24 hours a day and there are likely to be relatively high noise levels from gaming machines operating at the premises, as well as noise from customers. Further information is required regarding the likely noise levels within the premises, along with the current insulation measures in place in the form of an assessment which determines whether additional noise mitigation is required. Ideally this would be available prior to permission being granted, in case restrictions are needed on hours of use

or substantial improvements are needed to the structure of the premises, if this is not possible and permission is to be granted then conditions are proposed.”

3.11. Following negotiations with the agent, the Environmental Protection Officer concludes: *“it is probably low enough risk not to require a noise assessment, if the planner agrees, although the operator will need to deal with the issue retrospectively if there are noise problems.”*

3.12. In this particular case, there have been no noise problems, the premises are insulated and there is no noise at all caused by the gaming machines, and no noise caused by customers entering or leaving the premises. The Environmental Protection Officer concludes in the application at 134-135 Friar Street, that that application is low enough risk not to require a noise assessment (and low enough risk not to require an operating hours condition.) In this application, in respect of 9 West Street, the presumptions must be the same, but added to those presumptions are the evidence that neither the gaming machines nor the customers at these premises cause any noise issues.

3.13. A response from the Reading Borough Council Licensing Department is also referred to in respect of the application at 134-135 Friar Street, Reading, which also expresses reservations about the premises being granted permission for 24 hour use. It refers to the fact that the council has a cumulative impact policy in respect of alcohol applications under the Licensing Act 2003 (which was not applicable to 134-135 Friar Street, and is not applicable to this application). The Reading Borough Council Licensing Officer refers to potential issues.

3.14. Despite the concerns over 'potential' issues expressed by the Reading Borough Council Licensing Officer, the application at 134-135 Friar Street was granted with 24/7 use. Again, in this particular case, the premises have been trading for several years, and there have been no issues of crime and disorder or public nuisance (albeit public nuisance is not of massive relevance to the Gambling Act 2005).

3.15. Reading Borough Council, in granting planning permission for this site, considered policy CC7, CC8 and CR2 of the Reading Borough Local Plan 2019, and considered protecting the interests of safeguarding the character and appearance of the building and wider immediate area, and did not impose a restrictive hours condition on this site. There are 2 Adult Gaming Centres very close by to the applicant site, which operate 24/7 and, as far as the applicant is considered, do not raise any issues of noise disturbance to local neighbours.

3.16. The adjacent premises at Rooster's Peri Peri, 11-12 West Street trade until at least 4am at weekends.

4. Planning and Heritage Statement

Documents considered

- National Planning Policy Framework and Guidance
- Reading Borough Local Plan adopted 2019
- Planning History
- Planning Current Use

The Application

4.1. The application is to remove condition 3 and the restricted hours use, and to allow the premises to operate 24/7.

4.2. This Planning and Heritage Statement addresses the relevant documents set out above , provides an overview of the application, and concludes that the proposed application is acceptable and planning permission can be granted accordingly.

4.3. Southern City Leisure Limited is an independent operator of Adult Gaming Centres, and is part of the City Gaming Limited group, and is very experienced in operating Adult Gaming Centres. It holds a Gambling Operating Licence, and has done since the introduction of the Gambling Act in 2007, and has not had any issues at its other premises, which may impact at all on this project. It has a full range of policies and procedures, ensuring that the licensing

objectives in the Gambling Act 2005 are met at all times, and takes its responsibility to promote socially responsible gambling very seriously.

4.4. The application site is situated on West Street. This is a destination area for a range of activities including shopping and leisure. The surrounding area has a large number of fast food outlets as well as a range of uses which includes a mixture of retail and commercial

4.5. The premises are within the primary frontage within the Reading Borough Local Plan. The surrounding area is largely commercial with a mix of primary frontage and town uses, as well as some short-let residential uses on first floor.

4.6. Class E now includes previous uses Class A1, A2, A3, B1a, B1b, B1c, and some D1 and D2 uses. This is clearly a change in national policy introduced in September 2020 and does impact on the approach taken by local authorities in applying their current policies.

4.7. It is not uncommon to see the high street changing to more of a mixed use, and this reflects the way in which high streets have changed in recent years. It is clear that the change introduced in September 2020 was designed to avoid policies overly protecting the former Class A1 use.

National Policy

4.8. The NPPF (2021) sets out the presumption in favour of sustainable development.

4.9. The trend of national policy guidance towards non-retail uses has, since the issue of DCPN11 in 1985, been towards increased diversification through successive versions of PPG6, PPS6 and the Portas Review.

4.10. The trend of Government guidance is towards more flexibility of use and de-regulation in the form of changes to the GDO over the last few years, allowing greater flexibility of use.

4.11. Whilst the proposed use fall outside the use classes (it is sui generis), it is to be noted that class E (which includes retail and financial services) now also includes a broad range of non-retail uses not only for visiting members of the public but also for office, sport and recreation which have no affinity with shopping. The proposed usage equally appeals to shoppers and visiting members of the public who would also be using the other units in the vicinity.

4.12. There are three aspects of sustainable development, being those with an economic role, those with a social role and those with an environmental role.

4.13. An economic role considers proposals which contribute to building a responsive, competitive and strong economy. This usage contributes to a strong economy. Customers using the Adult Gaming Centre will be customers who will also use the other facilities in the high street, and vice versa. The provision of this new facility, with its significant investment, will add to the strength of the high street.

4.14. A social role requires the support of a strong, vibrant and healthy community. Finally, an environmental role involves contribution towards protecting and enhancing the natural, built and historic environment. The investment, both in the interior of the building and exterior, will add to the vitality of the area.

4.15. There is no conflict with national policy. Adult Gaming Centre's are an accepted 'main town centre use' – having regard to the 'sequential test' (as set out at para 86 of the NPPF) the first preference for such uses is to be located within town centres.

4.16. Paragraph 001 of PPG Town Centres and Retail (July 2019 Update) confirms that LPAs need to consider structural changes in the economy, specifically changes in shopping and leisure patterns and format. It goes on to state that a wide range of complementary uses can help to support the vitality of town centres, including leisure and entertainment.

4.17. Under the Gambling Act 2005, which is the legislation covering the licensing of Adult Gaming Centres, the nature of the gaming machines on a premises is defined by the

premises licence issued under the Gambling Act 2005. Adult Gaming Centres may offer a mix of B3, B4, C and D licence type gaming machines.

4.18. An Adult Gaming premises machine is also characterised by the charge and stakes available. No one under the age of 18 years is allowed to enter an Adult Gaming Centre.

Other Submissions

4.19. Whilst every application has to be considered on its merits, it is relevant to consider matters referred to in other decisions relating to Adult Gaming Centre usage.

4.20. It is important not to base any decision on a general view that Adult Gaming Centres may not be an appropriate usage for a particular site. Adult Gaming Centres are lawfully permitted to operate under the Gambling Act 2005 in the same way that Betting Shops are lawfully permitted to operate under the Gambling Act 2005. The Gambling Act 2005 sets out the licensing objectives which must be promoted at all times by an Adult Gaming Centre operator which include the prevention of gambling being connected with crime, as well as the protection of the vulnerable. As an Adult Gaming Centre operator licenced by the UK Gambling Commission, this applicant has in place policies and procedures which ensure that the licensing objectives under the Gambling Act 2005 are met.

4.21. Matters which are properly addressed by other legislation, and in particular the Gambling Act 2005, should not be relevant to this application.

4.22. It should be recognised that Adult Gaming Centres (and betting shops) are an established part of high streets and shopping centres throughout England and Wales.

4.23. Customers who visit an Adult Gaming Centre will be using other facilities and venues within the area, and an Adult Gaming Centre usage would complement and support the other uses. Additional pedestrian traffic will be created in the area. This development will increase activity in this locality from its present levels in the daytime.

4.24. There is no evidence that an Adult Gaming Centre at this site will adversely impact on residents in the area or on the area generally.

5. Proposed Conditions and Operational Statement

5.1. The applicant has considered all previous planning documentation, including the change of use approval (2016), the conditions use refusal (2017), the case officer's report for the withdrawn application (2018) and the change of use report and decision notice at 134-135 Friar Street, Reading.

5.2. The evidence and submissions made with this application lead the applicant and the author of this report with a clear view that there will be no noise disturbance at all caused by these premises operating 24 hours a day, 7 days a week. There is no noise disturbance caused by the operation of the machines, nor by the customers using these premises, and there are no issues at the applicant's other Adult Gaming Centres caused either by the noise of the machines or by the customers entering and leaving the premises.

5.3. The concerns expressed in previous planning applications related to the site are noted, as are the comments made in the recent application at 134-135 Friar Street, Reading.

5.4. It is also noted that the Admiral premises referred to in this application have been granted permission to trade 24 hours a day, 7 days a week, and do not appear to cause any noise disturbance at all, and it is clear that any concerns over the operation of these premises are unsubstantiated and unsupported by actual evidence.

5.5. Despite the above comments, the applicant has considered the concerns that have previously been expressed, and proposes additional conditions which the Local Authority is invited to attach to the grant of this application, should the Local Authority feel it is appropriate to do so, having regard to the other submissions in this document:

a) There will be no more than 12 customers allowed on the premises between midnight and 0600.

b) There will be a minimum of 2 members of staff on the premises between midnight and 0600.

c) The front door will remain closed and locked between midnight and 0600, and access to the premises will be permitted by staff allowing customers to enter the premises.

d) A member of staff will meet and greet each customer between the hours of midnight and 0600, and also see a customer off the premises between these hours, so as to ensure a quiet entrance and dispersal from the site.

5.6. The above four conditions will restrict the number of customers using the premises, ensure that access and dispersal to and from the premises is controlled by members of staff, and ensure that no noise disturbance is caused at all.

5.7. Southern City Leisure Limited is an independent operator of Adult Gaming Centres which holds an operating licence issued by the Gambling Commission. An application is being made for change of use at this site and an application has been made to the Local Authority for a premises licence under the Gambling Act 2005. In support of the premises licence application

Southern City Leisure Limited submitted a full local area risk assessment to the local authority which will set out how the licensing objectives referred to in The Gambling Act 2005 will be met. Staff at the premises will be highly trained and customers will receive face to face service.

5.8. The senior management team at Southern City Leisure Limited has been operating Adult Gaming Centres for many years and between them will have operated over 100 sites.

5.9. The machines offer low stakes ranging from 10p to a maximum of £2 and the average stake in an Adult Gaming Centre is between 30-50p. Adult Gaming Centres have been on the high street for many years. Unlike other gambling operations, staff do not remain behind a counter, but remain on the floor with the customers. There are no Fixed Odds Betting terminals in Adult Gaming Centres.

5.10. These premises will be no noisier than a shop as there will be no noise generated by the premises. The customer usage of this shop would be the same type of person as attracted by nearby shops, but in smaller numbers.

5.11. The premises will attract local people who are using the High Street for other activities and local residents. The customer split will be 50% male and 50% female and customers often visit on their own or in a couple but rarely in larger groups. Teas and coffees are provided to customers.

5.12. As the premises are situated on the Ground Floor of a building noise will not escape from these premises and disturb residents but in any event there are never any problems with noise at Adult Gaming Centres.

5.13. No person is allowed on the premises who is intoxicated and appropriate signage will be on display. There will be a significant investment in both the premises and the employment of people. The proposed level of investment will create a gaming destination for shoppers and residents in the area. Adult Gaming Centres are regularly found in the centre of many High Streets and many town centre's have more than one AGC in the area. This use relies on pedestrian flows and trades successfully in many shopping areas and contributes as a complimentary use to the overall attraction of the area. There will be no adverse impact and there is no evidence of any anti-social behaviour connected to such use.

5.14. There is a statutory obligation to not allow under 18s into the premises and a mandatory condition will be placed on the Premises licence that under 18s must be excluded from Adult Gaming Centres. The premises will also operate Challenge 25 which requires all customers who appear to be under 21 to show Identification to verify their age.

5.15. It is important to note that the proposed use as an Adult Gaming Centre is strictly regulated by the local authorities licensing authority, which is legally obliged to take into

consideration the three licensing objectives, which include keeping crime out of gambling premises and the protection of children from harm. Should there be any issues with Adult Gaming Centres, then action can be taken against the Gambling Act 2005 premises licence.

5.16. Southern City Leisure Limited are committed to operating a high quality Adult Gaming Centre which is fully serviced and accessible to all customers. The site has access to all local transport and amenities, including free and pay and display car parks nearby.

5.17. Customers will have direct access to the Adult Gaming Centre from High Street.

Access

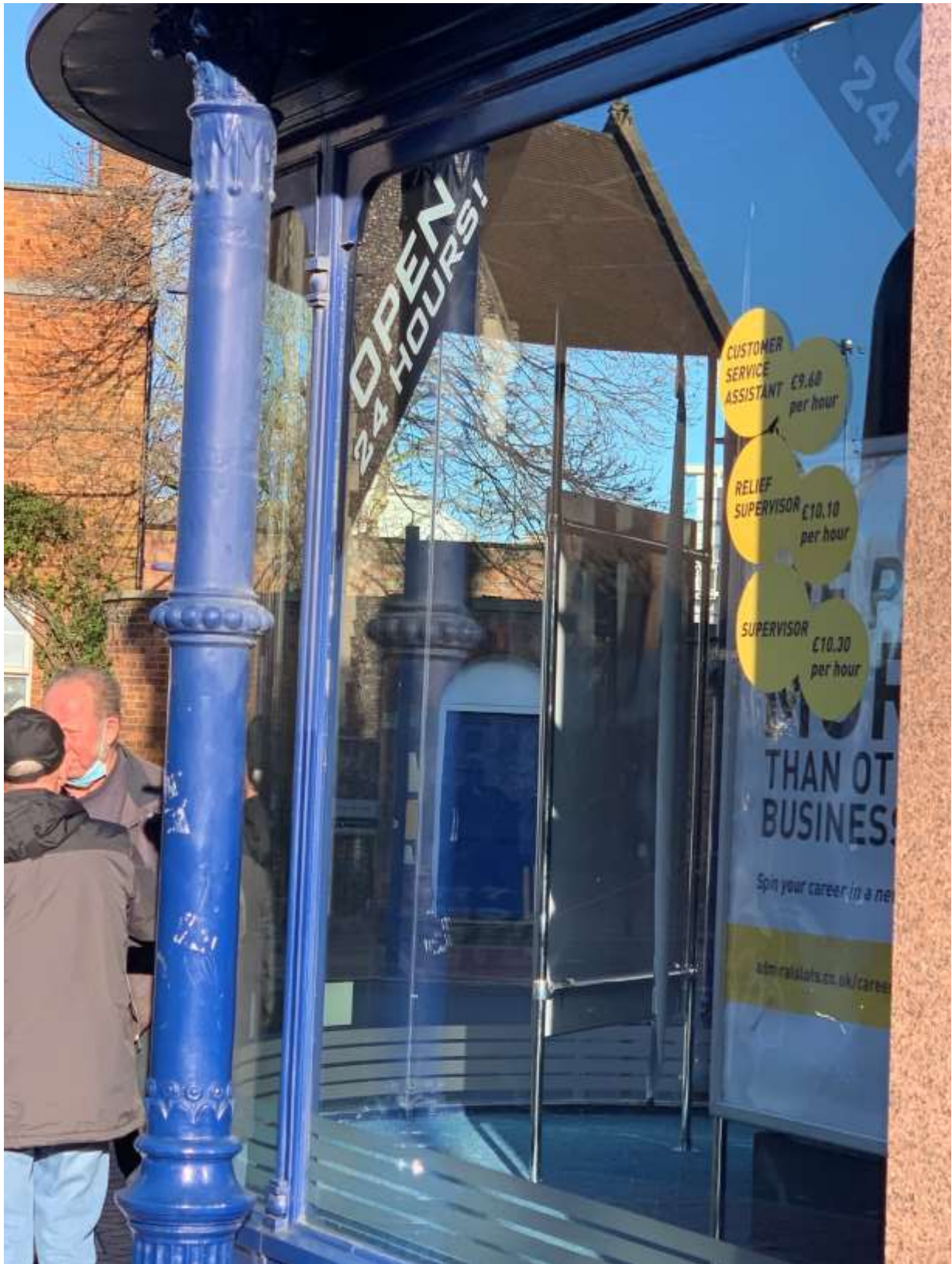
5.18. All customers will continue to access the Adult Gaming Centre from the front door subject to the additional proposed conditions.

6. Photographs





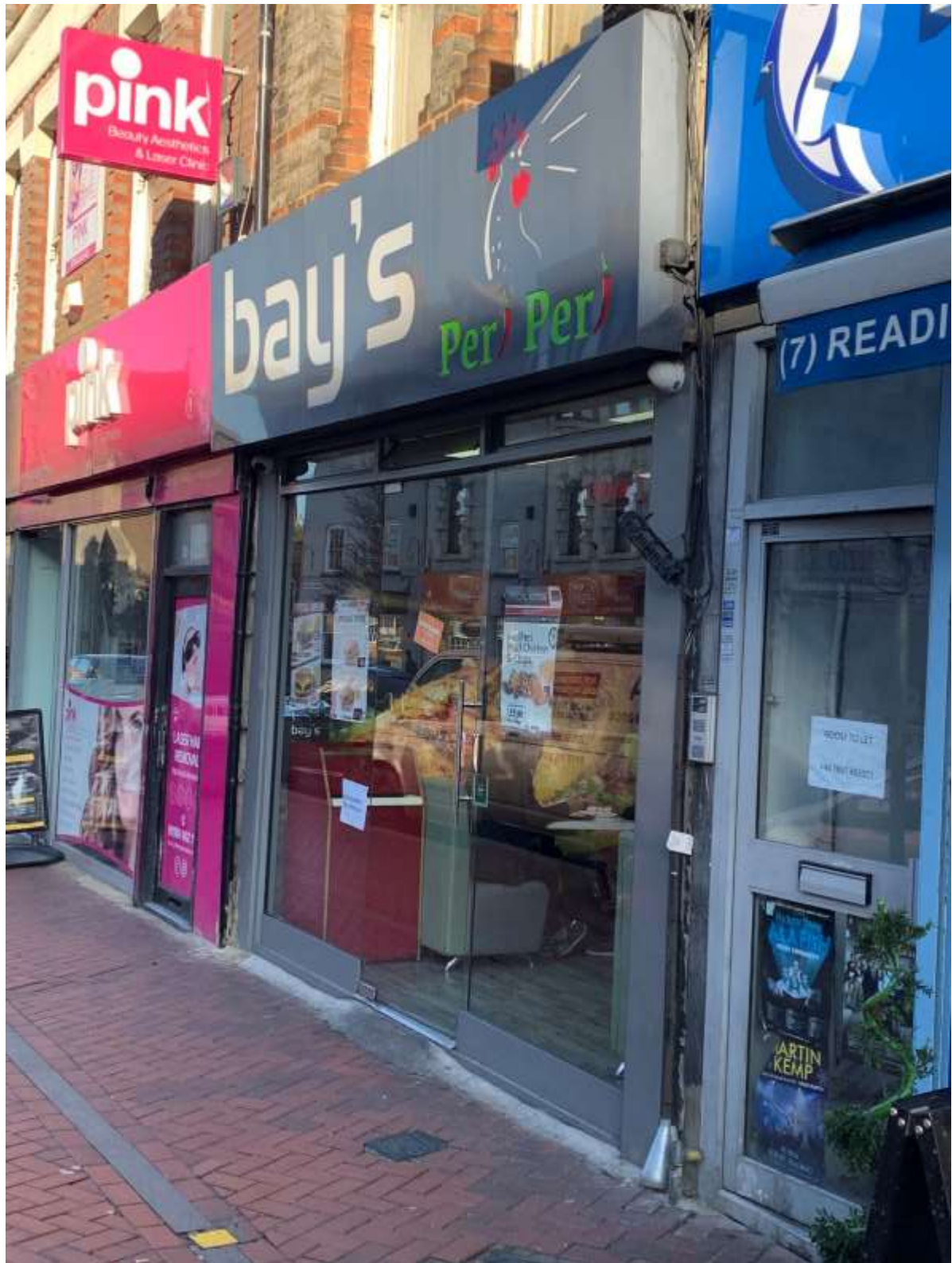


















7. Adult Gaming Centres and The Economy

7.1. Bacta has announced that the adult gaming centres industry contributed £126.8m in tax revenues to the exchequer, had a turnover of £750 million, and employed well over 7,000 people in 2019. The figures, which can be found in a new report from the Centre for Economics and Business Research, highlight the significant contribution the industry makes to the UK economy.

7.2. With all this taken into account, it is therefore possible to create an overall contribution from AGCs directly and indirectly at a level of: turnover £750m, GVA £398m, employment 7,254 (FTE).

7.3. In 2019, it is estimated that AGCs employed 4,227 fulltime equivalent jobs, created a turnover of £416m with a gross value added (GVA) of £216m.

7.4. The turnover, GVA employment and employee compensation contributed by AGCs have all increased significantly from 2015 to 2019.

7.5. The proportion of employees working full-time increased from 49 percent in 2017 to 59 percent in 2019.

7.6. The contribution of AGCs to the economy goes even further if one considers the support given to suppliers to the industry, as well as the demand supported when employees associated with the direct and indirect layers spend their earnings in the wider economy. The report shows the following:

7.8. For every £10 of turnover directly generated by firms operating AGCs, a further £8.04 worth of turnover is supported in the wider economy.

7.9. For every £10 of GVA directly generated by AGCs, a further £8.41 of GVA is supported in the wider economy.

7.10. For every 10 jobs directly generated by AGCs, a further 7.2 jobs are supported in the economy.

Source: Coinslot International - 12 March 2021

<https://www.coinslot.co.uk/2021/03/12/agc-contribution-uk-treasury-persuade-reopening/>

7.11. In the arcades sector, adult gaming centres totalled £97.0m in GGY (Period - April 2020 - September 2020).

Source: Gambling Commission - Industry Statistics - May 2021

<https://www.gamblingcommission.gov.uk/statistics-and-research/publication/industry-statistics-may-2021>

8. Summary of AGC Planning Appeals

Executive Summary

- *'I see no reason why the proposed AGC should not contribute to the mix of retail and non-retail uses offered within the town centre.'*
- *'Leaving properties vacant for long periods is normally considered detrimental to the viability and vitality of the town centre.'*
- *'The proposed use would add to the variety of uses in the town centre... this proposal would strengthen and provide investment... four full time jobs would be created... I agree with the appellant's evidence that amusement centres can be part of their customer trips into the centre. Thus, the proposed use would contribute to the vitality and viability of the centre.'*
- *'It is contended that the proposed change of use (to AGC) would inadequately contribute to the maintenance and enhancement of this secondary shopping frontage vitality and viability. However, other than asserting that there will be such an adverse effect, no evidence has been put before me demonstrating that would be the case.'*
- *'I also bear in mind that the proposal would be open longer than the existing use, and would attract footfall in the evenings at night over a longer period of time than the current use. As such, it would make a greater contribution to the evening economy than the existing use.'*
- *'The retail market has changed significantly in recent years with the advent of internet shopping, and even in primary shopping areas there has been a move towards a greater variety of operators catering to different needs.'*
- *'There is little evidence therefore to suggest that this proposal would undermine the existing or future provision of shopping services in this location. Rather, the proposed change of use would return a vacant unit to use, would widen the range of uses as envisaged by policy 6 and would generate additional footfall and employment. In this context, the proposal would benefit the vitality and viability of the town centre.'*
- *'When these factors are taken together, in particular that the vacant unit would be brought back into use, the proposals would be complementary to the shopping environment as it would not undermine the vitality and viability of the centre.'*
- *'Although the proposed sui generis use would conflict with policy... in this particular case the benefits of the scheme would bring about justified decision not in accordance with the development plans.'*
- *'The proposed use would comply with the aims of this policy by supporting the vitality and viability of the town centre and bring a vacant unit back into use, facilitating a use which could add to the footfall and increase the opportunity for shared trips. It would also add to the evening economy being the use would open up to 24 hours and also subsequently increase employment opportunities.'*
- *'The proposal would generate footfall and gaming centre customers also tend to visit shops. In addition, the appellant sets out that the proposed use would create 7 full-time equivalent jobs, introduce a new use and investment in the premises and centre... the proposal would bring a vacant unit back into use with the potential for some linked trips, thereby complementing and helping to maintain the vitality and viability of the centre.'*

1. Future Leisure Limited v London Borough of Brent (Ref: APP/T5150/W/17/3189944 – 9 May 2018)

- This appeal relates to the proposed change of use from a pay day loan establishment to an AGC. The main issue being the effect of the proposal on the vitality and viability of Willesden Green town centre, with particular regard to safety, security and anti-social behaviour and crime.
- In particular in relation to the impact on children, Paragraph 17 states that: *"It would not be appropriate to reject a planning application for a legitimate form of use on the basis of an assumption that the premises would not be run in accord with the relevant statutory regulations"*.
- In respect of social concerns about harmful effects and alleged links with gambling and in relation to vulnerable persons, the Inspector stated the following at Paragraphs 26, 29 and 30:
"Moreover, if such general social concerns about harmful effects and alleged links between gambling, alcohol abuse and mental health disorders were accepted as a sound basis for rejecting planning for such uses, it is unlikely that planning permission would be given for any betting shops or AGCs or indeed other types of premises, such as pawnbrokers/payday lenders, off-licences, public houses or takeaways."
"The proximity of facilities for vulnerable groups would not, of itself, justify withholding permission, given that the Council's DMP and relevant statute accepts AGCs as a legitimate form of planning use, albeit that they are also subject to a separate licensing and regulatory regimes".
"Moreover, vulnerable persons in the area would, whether the proposal was approved or not, still have access to betting shops, off-licences, public houses, pay-day lenders and pawnbrokers as they would in many high streets across London and the country".
- The Inspector when considering previous planning appeal decisions, confirmed in Paragraph 37 that, providing there was compliance with policies designed to prevent an over-concentration of AGCs, there was no reason why they should be considered to undermine the vitality and viability of town centres and:
"...Therefore, I see no reason why the proposed AGC should not contribute to the mix of retail and non-retail uses offered within the town centre".
- Some residents suggested that the property should remain vacant or utilised for an alternative use. The Inspector's response to this at Paragraph 39 stated:
"...leaving properties vacant for long periods is normally considered detrimental to the viability and vitality of town centres".
- Other matters raised included that the premises was in the Conservation Area. As there were to be no external alterations and that there could be a condition to retain a retail window display, it was determined that the change of use would not have an adverse effect on the character or appearance of the Conservation Area.

2. **JWT Leisure v Blackpool Borough Council (Ref: APP/J2373/W/18/ 3196247 – 18 May 2018)**

- This appeal relates to the proposed change of use from retail to an AGC. The main issue being the effect of the proposal on the vitality and viability of Blackpool Town Centre, with particular reference to its character and appearance.
- In respect of these issues, the Inspector confirmed at Paragraph 11 that: *"The proposed use would add to the variety of uses in the town centre, and in particular to the north-east of the PRC. By re-using the unit, the proposal would strengthen and provide investment, supporting the re-branding of the town centre. Four full-time jobs would be created. I note that the proposed use would consist mainly of low-stake and prize gaming machines for adults. Thus, it would be different to amusement arcades. I agree with the appellant's evidence that amusement centres can be part of their*

customer's trips into the centre. Thus, the proposed use would contribute to the vitality and viability of the centre".

- Specific to concerns expressed about the effect of the proposed use on the health and education of Blackpool's population, the Inspector stated at Paragraph 13 that: *"... there is little conclusive evidence that the proposal would, individually or collectively, result in harm to people's health and education, or prevent them from leading healthy lifestyles".*

3. Terry Farr v London Borough of Waltham Forest (Ref: APP/U5930/W/18/ 3193121 – 27 July 2018)

- This appeal relates to the proposed change of use from an estate agent's office to an AGC. The main issue being the effect of the use on the vitality and viability of Walthamstow town centre.
- Expressly in relation to the vitality and viability of the secondary shopping frontage, the Inspector found at Paragraph 8: *"It is contended that the proposed change of use would inadequately contribute to the maintenance and enhancement of this secondary shopping frontage's vitality and viability. However, other than asserting that there would be such an adverse effect no evidence has been put before me demonstrating that would be the case".*
- In addition, although the marketing evidence produced by the appellant was limited, considerable weight was attached to it. The reason being that it has come from an agent that could reasonably be expected to have very good knowledge of the market for commercial premises in Hoe Street, as the agent's office was a few doors from the property.
- The Inspector on the evidence available to him, states at Paragraph 12 that: *"I conclude that the use would not adversely affect the vitality and viability of Walthamstow town centre. I therefore consider that there would be no conflict with Policy DM25 of the Local Plan because: the use would not result in an increase in the number of non-Class A1 premises in the secondary frontage; the available evidence suggests that there is little prospect of a Class A1 user seeking to reoccupy the premises; and there would not be an undue concentration of adult gaming centres in the affected part of Hoe Street".*
- Other matters raised included that the use could have implications for crime and disorder or contribute to gambling addiction. The Inspector at Paragraph 13 confirmed that: *"Those are matters that are addressed by 'other legislation' and are therefore not for my consideration in determining this appeal".*

4. GT Promotions Ltd v London Borough of Lewisham (Ref: APP/C5690/W/ 17/3191347 – 28 August 2018)

- This appeal relates to the proposed change of use from a 'pay day loans' establishment to an AGC. The main issue in this appeal is the effect of the proposal on the vitality and viability of Lewisham town centre.
- In terms of background, it was confirmed that there were several adult gaming centres and betting offices on nearby streets. However, the Inspector found that due to total number of units and the presence of intervening uses, gambling facilities did not dominate the centre as a whole. Nor would the addition of one such use result in a cluster or concentration of such uses (Paragraph 7)
- Specific to levels of footfall and contribution to the economy, The Inspector found at Paragraph 11: *"the loss of footfall associated with those uses would not occur. I also bear in mind that the proposal would be open longer than the existing use and would attract footfall in the evenings and at night, over a longer period of time than the current use. As such it would make a greater contribution to the evening economy than the existing use".*

- In respect of the property being a non-retail development, within the primary shopping frontage, the Inspector at Paragraph 13 confirmed that: *"there is no evidence to suggest that the proposed change of use would harm the amenity of adjoining properties"*. In the same paragraph it also confirmed that the potential noise from around the clock use could be addressed by way of a condition.
- In relation to the shop frontage, the Inspector found that in comparison to the existing 'pay day loan' frontage that: *"The design of the shop front itself is broadly consistent with those of surrounding units. I consider that the proposal is likely to result in a more active window display than is there at present. However, in the absence of an existing window display it would not be appropriate, in the specific circumstances of this case, to require a display window selling retail goods by condition"* (Paragraph 15).
- In summary in relation to these points the Inspector concluded at Paragraph 16 that: *"given the existing and proposed use, I am satisfied that the development would not result in the loss of a retail unit, active frontage or a retail display. Neither would it result in the dilution of the retail offering or the weakening of the shopping strength, vitality or interest of the area. Furthermore, it would contribute to the evening economy. Consequently, I consider that the proposal would not have a materially harmful effect on the vitality and viability of the town centre and policy LTC16 is satisfied"*.
- Other matters raised related to concerns regarding the social and public health issues arising from 'problem' and 'at risk' gamblers. The Inspector confirmed at Paragraph 21 that: *"it would not be appropriate to reject a planning application for a legitimate form of use on the basis of an assumption that the premises would not be run in accord with the relevant statutory regulations"*.

5. Michelle Jones (Kerching Amusements) v Broxtowe Borough Council (Ref: APP/J3015/W/18/3212670 - 9 April 2019)

- This appeal relates to the proposed change of use from a vacant shop unit (within the designated primary shopping frontage) to an AGC. The main issue in this appeal being the effect of the proposal on the vitality and viability of Eastwood Town Centre.
- The Inspector in considering this issue noted at Paragraph 10 that: *"The retail market has changed significantly in recent years with the advent of internet shopping and, even in primary shopping areas, there has been a move toward a greater variety of operators catering to different needs. Indeed, I note the comments of the Council's Town Centre & Regeneration Officer which refer to the 'evolving' role of the town centre with a 'long-term structural shift away from retail dominated provision to services of all types, but especially leisure (e.g. bars, cafés, entertainment) and a continued rationalisation of non-sustainable retail spaces."*
- The Inspector also noted that the vacancy rate within the primary frontage was 14 units out of 95, or 14.7%. Suggesting that demand for vacant premises was not outstripping demand. The Inspector stated at Paragraph 13: *"There is little evidence, therefore, to suggest that this proposal would undermine the existing or future provision of shopping services in this location. Rather, the proposed change of use would return a vacant unit to use, would widen the range of uses as envisioned by Policy 6 and would generate additional footfall and employment. In this context, the proposal would benefit the vitality and viability of the town centre"*.
- Other matters raised concerns in relation to the potential adverse social impacts of an adult gaming centre. The Inspector was satisfied that the business would be strictly controlled by the requirements of the Gambling Commission and there is nothing to suggest that these requirements would or could not be adhered to.

- Potential disturbance as a result of the noise from the gaming machines was raised as a concern. It was indicated to the Inspector that the machines are volume adjustable and so he was satisfied that a condition restricting noise from being audible beyond the boundaries of the premises would be sufficient to prevent harm to adjacent occupants.

6. Luxury Leisure v Hull City Council (Ref: APP/V2004/W/19/3233244 – 22 October 2019)

- This appeal relates to the proposed change of use from an A1 Shop (Retail) to an AGC. The main issue in the appeal is the effect of the proposal on the vitality and viability of the Holderness Road District Centre.
- The appeal site was located within a defined District Centre on Primary Frontage where the Council restricted non-A1 uses to no more than 30%. The proposals involved a change of use from A1 to AGC, which would have been in conflict with this threshold and hence was refused permission by the Council.
- The Inspector noted at Paragraph 14 that the appeal property had been vacant for over 2 years, which would mean that it would continue to depreciate from the viability and vitality of the centre even though the overall vacancy rate was low – the Inspector confirmed that this attracted significant weight in their decision.
- The Inspector recognised at Paragraph 15 that the appeal site's close location to other shops and services would result in potential for linked trips and associated footfall. In addition, there would be minor benefits for employment and the evening economy with the proposed 24/7 trading. The decision stated: *"The site's location close to the other shops and services would result in the potential for linked trips and associated footfall. There would be minor benefits with the envisaged employment levels, to the evening economy with the proposed opening hours and with regard to providing natural surveillance, along with the existing gaming centres and other evening uses"*.
- At Paragraph 16 the Inspector recognised that: *"The proliferation of adult gaming centre uses, in particular in this terrace of units, would not be to the extent that the proposal would cause undue concern"*.
- The Inspector concluded in relation to vitality and viability of the centre at Paragraph 17 that: *"When these factors are taken together, in particular that the vacant unit would be brought back into use, the proposals would be complimentary to the shopping environment as it would not undermine the vitality and viability of the centre. Likewise, when the indicators in the PPG are considered, the proposal would not detract from the health of the centre. It would maintain the diversity of uses and it would lower the proportion of vacancies. Nor would it diminish from customers' experience and behaviours of the centre, as it would be a complimentary use that would not be unexpected in such a location and allow the potential for linked trips."*
- In relation to the proposed 24hr operation, the Inspector concluded at Paragraph 22 that: *"...In relation to the proposed opening hours, the application submission indicates it would be in 24 hour operation on all days of the week. This is not unacceptable with its District centre location. Thus, a restriction of the opening hours would also not be reasonable and necessary."*
- Other matters raised related measures which concerned security and social responsibility. The Inspector stated at Paragraph 20 that: *"Although I am aware of the concerns that can be expressed because of the nature of the use, these largely lie outside of what I can consider"*.

7. Majid Morabbi v Derbyshire Dales District Council (Ref: APP/P1045/W/19/3228235 - 20 December 2019)

- This appeal relates to the proposed change of use from a single storey public convenience to an AGC. The main issues in this appeal were, firstly, whether the proposal would result in unacceptable effects on the residential amenity of neighbouring occupants. Secondly, the suggestion that the proposal would give rise to noise and disturbance and potential anti-social behaviour.
- There is a large public house with a large external area facing the premises. The Inspector, therefore, found at Paragraph 10 that: "...it is my opinion that any noise and disturbance to nearby residents as a result of the proposal is likely to be negligible given this established nearby use which reinforces the busy town centre character of the area".
- Conditions were applied in restricting the hours of the proposed premises and prohibiting any amplified music. This led the Inspector at Paragraph 12: *"to the view that the proposed development, subject to conditions, would not cause any noise and disturbance of a degree sufficient to result in unacceptable harm to the living conditions of the occupants of adjacent residential properties. For these reasons, I find no conflict with Policies S3 and PD1 of the Adopted Derbyshire Dales Local Plan 2017 which, amongst other things, seeks to ensure that development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects by reason of noise or other adverse impacts on local character and amenity"*.
- Other matters raised included that the premises was in the Conservation Area, but this was dismissed, as there was to be no physical alterations to the appearance of the appeal property.
- Objections were also received on moral grounds, on the proximity to a school with the inference that young people would be attracted to the premises. The Inspector stated at para 15: *"These are not planning matters for my consideration as national and local planning policies do not proscribe such uses. Rather, the government seeks to regulate such activities by other statutory means predominantly via the licencing regime"*.

8. Luxury Leisure v London Borough of Croydon (Ref: APP/L5240/W/19/3232831 - 13 January 2020)

- The main issues in this appeal relate, firstly, to the effect of the development on the vitality and viability of the Thornton Heath district shopping centre. Secondly, to the effect of the proposed shop front alterations on the character and appearance of the host property and the surrounding area.
- The premises had been vacant for some time and the condition of the premises had a detrimental effect on the character and appearance of the area. The Inspector, therefore, found that the proposal would result in a significant improvement to the contribution the premises would make to the character and appearance of the area. In addition there would also be job creation and overall it would contribute to the vitality and viability of the area. Para 10 states: *"The development would, therefore, result in a significant improvement to the contribution this premises makes to the character and appearance of the area. In view of the period of time this premises has remained in its current condition, I view this as a benefit of the scheme, along with the creation of jobs. These matters would contribute to the vitality and viability of the Thornton Heath shopping centre"*. Further, in Paragraph 13 it states: *"...despite being marketed during the regeneration period, the proposed use would not jeopardise the positive momentum of the centre's regeneration..."*. In addition, at Paragraph 15, it states: *"Although the proposed sui generis use would conflict with Policy DM4.2 of the CLP, in this particular case the benefits that the scheme would bring about justify a decision not in accordance with the development plan"*.
- Specific to character and appearance, there was concern in relation to the illumination of the yellow door surround and the effect that it would have on the nearby Thornton Heath Clock Tower. The Inspector agreed to allow a condition that limited the level of illumination, allowing this door feature to be more subdued. On this basis, the Inspector confirmed at Paragraph 35: *"...the*

development would have an acceptable effect on the character and appearance of the host property and the surrounding area, in compliance with Policy DM11 (Shop Front Design and Security) of the CLP, which requires the design of new shop fronts to respect the scale, character, materials and features of the buildings of which they form part”.

- Other matters raised related to those under the age of 18, sale of alcohol and stakes on machines. The Inspector stated: *“Many of the concerns raised are more relevant, and better dealt with, under the licencing regime”.*

9. Praesepe Holdings Ltd v Doncaster Metropolitan Borough Council (Ref:APP/F4410/W/20/3250246 - 14 August 2020)

- This appeal relates to the proposed change of use from a vacant shop unit to an AGC. The main issues in this appeal relate, firstly, to the effect of the proposal on the vitality and viability of the Doncaster town centre and primary shopping frontage. Secondly, the effect of the proposal on the health and wellbeing of residents living in the Town Ward of Doncaster.
- The property had been vacant since October 2018 and although highlighted as primary shopping frontage the Inspector found there was already broadly a 50/50 split between retail and non-retail uses. As such, the Inspector states at Paragraph 11: *“The use proposed would comply with the aims of this policy by supporting the vitality and viability of the town centre and bring a vacant unit back into use, facilitating a use which could add to the footfall and increase the opportunity for shared trips. It would also add to the evening economy being a use that would be open up to 24 hours, and also subsequently increase employment opportunities”.*
- The council considered that the property was in a deprived area and the Ward has an over representation of residents susceptible to problem gambling. The Inspector cited the ‘Gambling: An Evidence Briefing Paper for Doncaster’ report that accepts that there is a lack of robust evidence concerning problem gambling. In addition he confirmed that the report does not correlate that the proximity of a gambling establishment within a close proximity to residents’ results in additional problem gambling.
- In response to this the Inspector at Paragraph 16 states that he did: *“...not agree therefore that the argument presented can be given significant weight, or that there is a clear link between the proposed use of the site and the concerns the Council identify”.* At Paragraph 13, he goes on to state: *“I do not consider therefore that the proposal would adversely affect the health and wellbeing of residents in the Town Ward of Doncaster. I do not consider therefore that this would lead to a conflict with either the Framework or the Emerging Local Plan policy 51”.*
- Other matters raised included that the premises was in the Conservation Area. As there were no changes were proposed to the external façade of the building and a shop window display was confirmed to be retained; the Inspector at Paragraph 18 considered *“the duty to preserve the Conservation Area would be achieved”.*

10. East Kent Leasing Ltd v Luton Council (Ref: APP/B0230/W/20/3256275 – 29 December 2020)

- This appeal relates to the change of use from betting office to AGC. The main issues in this appeal relate to the effect of the proposed development upon the vitality and viability of Luton town centre.

- The Inspector confirmed at Paragraph 6 that: *“Amusement centres and betting shops, for that matter, are an established part of high streets and shopping centres and complement their retail function”.*
- The inspector considered a number of elements, including linked visits to amusement centres with shopping trips or work, the age restrictions in place at an AGC, whether security should be provided, and whether that the town centre is at a critical stage of its regeneration. In relation to these points, the Inspector concluded at Paragraph 12: *“As such, the proposed development would not undermine the vitality and viability of Luton town centre. As such it would accord with Policies LLP1, LLP3 and LLP25 of the Luton Local Plan (2016) which, amongst other things, require all new development to preserve or improve the character of the area; town centre proposals to contribute towards job creation, contribute to the achievement of a mixed area which is vibrant and active and enhance the distinctiveness and character of the area by responding positively to townscape”.*
- Further in Paragraph 13 the Inspector confirmed that the proposals did accord with the NPPF: *“Paragraphs 85 and 127 (of the NPPF), which amongst other things, seek to promote the growth and diversification of town centres to allow them to grow and diversify in a way that can respond to rapid change in the retail and leisure industries and allows a suitable mix of uses, and create places where crime and disorder, and the fear of crime do not undermine the quality of life or community cohesion”.*
- When considering the Council’s suggestion to limiting opening hours by conditioning them; the Inspector instead confirmed at Paragraph 17 that: *“... the nature of the use is unlikely to result in undue noise and disturbance from comings and goings and given its town centre location and the presence of late night and 24 hour uses in the area I do not consider it necessary to limit the opening hours”.*

11. Future Leisure Ltd v Westminster City Council (Ref: APP/X5990/W/ 21/3271781 – 09 November 2021)

- This appeal relates to the proposed change of use from a ‘betting shop’ to an AGC. The main issues in this appeal relate to the effect of the development on the character, function and vitality and viability of the Queensway/Westbourne Grove Major Centre.
- The Council indicated that the development was unlikely to generate footfall and would not compliment the centres retail function. However, the inspector accepted the evidence before him that (Paragraph 12) *“...the proposal would generate footfall and that gaming centre customers also tend to visit shops. In addition, the appellant sets out that the proposed use would create 7 full time equivalent jobs, introduce a new use and investment in the premises and the centre”.* The Inspector thereby concluded that: *“the proposal would bring a vacant unit back into use with the potential for some linked trips, thereby complementing and helping to maintain the vitality and viability of the Centre”.*
- Specific to vulnerable persons being attracted to a gaming centre the Inspector at Paragraph 14 confirmed that: *“Risks to problem gamblers and other vulnerable persons would be more directly relevant to the appropriate licensing and regulatory functions..... Furthermore, there is little evidence to support the view that quality of life and community cohesion would be detrimentally impacted by the proposed use”.*
- Concerns about the effect of the development on the living environment for local residents and the effect of the development on measures undertaken to improve the public realm were considered. The Inspector found at para: 16 that: *“there is limited evidence that the living conditions of nearby*

residents or others staying in the area would be harmed because of the development. Nor has it been shown that the development would be detrimental to the recent public realm improvements”.

- In justifying her decision for allowing the appeal, the Inspector concluded at Paragraph 17 that:
“Overall, I am satisfied that the proposal would not detract from the character, function or vitality and viability of the Queensway/Westbourne Grove Major Centre. The development would comply with the requirements of Policies 7, 14 and 16 of the WCP in so far as these policies seek to protect living conditions of residents, maintain the vitality and viability of town centres and ensure that entertainment uses are of a type and size appropriate to their location. It would also accord with the Framework where it takes a positive approach to the growth, management, and adaptation of town centres”.
- Other matters raised included that the premises was in the Conservation Area. The Inspector found at Paragraph 20 that: *“The building is part of relatively complete mid-Victorian terrace in yellow stock brick which is characteristic of the local area. The proposal would bring an existing vacant unit back into use without external alterations to the building. The maintenance of a window display may be sought by condition. Overall, in the context of the street scene, the character of the conservation area would be preserved”.*

9. Documentation Submitted

i. 9 West Street - Change of use Approval 2016

ii. 9 West Street - Application Refusal 2017

iii. 9 West Street - Application Withdrawn 2018

iv. 9 West Street - Report RE. 2018 Application

v. 134 - 135 Friar Street - Change of Use Report

vi. 134 - 135 Friar Street - Change of Use Decision Notice

vii. Layout Plan