

# GLOUCESTER CITY COUNCIL - DEVELOPMENT CONTROL

Committee:	Planning
Date:	06/07/2021
Address/Location:	5 Northgate Street Gloucester GL1 2AH
Application No:	21/00481/FUL
Ward:	Westgate
Expiry Date:	09.07.2021
Applicant:	Merkur Slots UK Ltd
Proposal:	Change of use from vacant bank (Use Class E) to an Adult Gaming Centre (Sui Generis)
Report by:	Piotr Kulik
Appendices:	Site Block Plan

## 1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The proposal is located with the City Centre Conservation Area. 5 Northgate Street is located on the Western side of Northgate Street at the heart of the Conservation Area close to the Cross and within the setting of a number of Grade I and II listed buildings and including, St Michaels Tower Grade II\*. The building forms part of a row of 3 commercial units and has a concrete facade typical of the late 60s development within the town centre and although not an attractive building, it is of its time.
- 1.2 The application site is located within the Primary Shopping Area of Gloucester City Centre, within its Primary Shopping Frontage. The unit was formerly occupied by Yorkshire Bank, which vacated the site in September 2020.
- 1.3 This application proposes a change of use from a former E Class bank (A2 under a former use class order) to a sui generis adult gaming centre.
- 1.4 The proposed works also include installation of of 1 no. non-illuminated fascia signs and 1 no. non-illuminated projecting sign, which are considered under a separate advertisement consent ref. 21/00482/ADV.

## 2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
44/37070/HIST	27252 P/495/60:- EXTENSION TO SHOP PREMISES	Z45APP	22.11.1961
44/37071/HIST	27252 P/287/70:- DEMOL OF EXISTING BUILDS., EREC OF 3 SHOP WITH OFFICES OVER*	Z45APP	12.08.1970
44/37072/HIST	27252 P/287A/70:- EREC OF 3 SHOPS WITH OFFICES & STORAGE OVER, ALTERS TO *	Z45ASC	30.09.1970

44/37073/HIST	27252 P/287B/70/72:- (REV APP) EREC OF 3 RETAIL SHOPS WITH OFFICES & STORAGE OVER	Z45ASC	05.04.1972
44/37074/HIST	27252 P/1571/72:- INSTALLATION OF SHOPFRONT & INTERNAL FITTINGS	Z45ASC	17.01.1973
44/37075/HIST	27252 AP/1571/72:- ILLUMINATED FASCIA SIGN	Z45AFY	17.01.1973
44/37076/HIST	27252 AP/852/74:- ILLUMINATED DOUBLE SIDED PROJECTING BOX SIGN	Z45AFY	09.10.1974
98/00291/ADV	Internally illuminated fascia sign (letters only) and externally illuminated hanging sign.	GFY	08.06.1999
10/00878/FUL	Replacement shopfront including ATM	G3Y	16.09.2010
21/00481/FUL	Change of use from vacant bank (Use Class E) to an Adult Gaming Centre (Sui Generis)		
21/00482/ADV	Installation of 1 no. internally illuminated fascia signs and 1 no. internally illuminated projecting sign		

### 3.0 RELEVANT PLANNING HISTORY

3.1 The following planning guidance and policies are relevant to the consideration of this application:

#### 3.2 National guidance

National Planning Policy Framework (NPPF) and Planning Practice Guidance

#### 3.3 Development Plan

**Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (Adopted 11 December 2017)**

SD2 – Retail and City /Town Centres

SD4 – Design requirements

SD8 – Historic Environment

SD14 – Health and environmental quality

INF1 –Transport network

#### 3.4 City of Gloucester Local Plan (Adopted 14 September 1983)

The statutory Development Plan for Gloucester includes the partially saved 1983 City of Gloucester Local Plan. Paragraph 215 of the NPPF states that '*...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.*' The majority of the policies in the 1983 Local Plan are out-of-date and superseded by later planning policy including the NPPF and the Joint Core Strategy. None of the saved policies are relevant to the consideration of this application.

#### 3.5 Emerging Development Plan

##### Gloucester City Plan

The Gloucester City Plan ("City Plan") will deliver the JCS at the local level and provide policies addressing local issues and opportunities in the City. The Pre-Submission version of

the Gloucester City Plan (City Plan) was approved for publication and submission at the Council meeting held on 26 September 2019. On the basis of the stage of preparation that the plan has reached, and the consistency of its policies with the NPPF, the emerging policies of the plan can be afforded limited- moderate weight in accordance with paragraph 48 of the NPPF, subject to the extent to which there are unresolved objections to each individual policy (the less significant the unresolved objections, the greater the weight that may be given).

Relevant policies include:

A1 – Effective and efficient use of land and buildings

B3 – New employment development and intensification and improvements to existing employment land

C1 – Active design and accessibility

D1 – Historic environment

D2 – Non designated heritage assets

D3 – Recording and advancing understanding of heritage assets

D4 – Shopfronts, shutters and signs

F1 – Materials and finishes

F3 – Community safety

G1 – Sustainable transport

G3 – Cycling

G4 – Walking

### 3.6 **Other Planning Policy Documents**

#### **Gloucester Local Plan, Second Stage Deposit 2002**

Regard is also had to the 2002 Revised Deposit Draft Local Plan. This has been subjected to two comprehensive periods of public and stakeholder consultation and adopted by the Council for development control purposes. The following “day-to-day” development management policies, which are not of a strategic nature and broadly accord with the policies contained in the NPPF, should be given some weight: :

BE.30a – Control of redevelopment in Conservation Areas

E.4 – Protecting Employment Land

### 3.7 **Supplementary Planning Guidance/Documents**

- Shopfronts, Shutter & Signage Design Guidelines for Gloucester June 2017

All policies can be viewed at the relevant website address:- national policies:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Gloucester City policies:

<http://www.gloucester.gov.uk/resident/planning-and-building-control/planning-policy/Pages/current-planning-policy.aspx>

## 4.0 **CONSULTATIONS**

### 4.1 **Highway Authority**

No objection.

#### 4.2 **Conservation Officer**

The signs are acceptable in terms of the materials although the scheme in overall is not considered an 'enhancement' on Conservation grounds.

#### 4.3 **Noise Officer**

No objection.

#### 4.8 **Local Member**

Cllrs Melvin and Tracey called this application in due to considered adverse impact on social wellbeing of similar uses, which are already over intensified within the locality.

### 5.0 **PUBLICITY AND REPRESENTATIONS**

5.1 Neighbouring properties were notified and press and site notices were published.

5.2 1no. anonymous letter of objection raising the following issues:

- Principle of the change of use
- Noise impact upon amenity

5.3 The full content of all correspondence on this application can be viewed on:

<http://www.gloucester.gov.uk/resident/planning-and-building-control/Pages/public-access.aspx>

### 6.0 **OFFICER OPINION**

#### 6.1 ***Legislative background***

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Local Planning Authority to determine planning applications in accordance with the Development Plan, unless material considerations indicate otherwise.

6.2 Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that in dealing with a planning application, the Local Planning Authority should have regard to the following:

- a) the provisions of the development plan, so far as material to the application;
- b) any local finance considerations, so far as material to the application; and
- c) any other material considerations.

6.3 The development plan consists of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) and the partially saved 1983 City of Gloucester Local Plan. However, as outlined earlier, the 1983 Local Plan is considered to be out-of-date.

6.4 It is considered that the main issues with regards to this application are as follows:

- Principle
- Design and impact upon the local area character
- Traffic and transport
- Residential amenity
- Economic considerations

## 6.5 Principle

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that where an area is designated as a conservation area '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area*'.

Chapter 16 of the National Planning Policy Framework sets out the importance of protecting and enhancing the historic environment, and conserving heritage assets in a manner appropriate to their significance. In particular, paragraph 192 states that in determining planning applications, local authorities should take account of 'the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation'. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Policy SD8 of the JCS similarly seeks to preserve and enhance heritage assets as appropriate to their significance.

- 6.6. Chapter 7 of the NPPF refers to ensuring the vitality of town centres and states that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption.

Policy SD2 from the adopted Joint Core Strategy (JCS) (adopted November 2017) states that "within the primary shopping frontage identified, the change of use of A1 (retail) premises will not be permitted, unless it can be demonstrated that the unit is not suitable for continued A1 use, the proposed use will maintain or enhance the vitality and viability of the area and it would not have a significant adverse impact on the amenity of adjacent residents or businesses."

- 6.7 The background text for Policy SD2 (Retail and City/ Town Centres) states that 'it is important that policies are put in place that will allow our centres the flexibility to diversify whilst supporting their vitality and viability, and also to promote competitiveness in order to provide individuality, choice and diversity'.

Section 3 point i of Policy SD2 says that 'within the defined City Centre boundary, proposals for leisure, entertainment and recreation, office, arts, culture, tourism, community facilities and residential development will be supported provided they would not have a significant adverse impact on the amenity of adjacent residents or businesses'.

Point ii of the same section of the policy continues: 'within the primary shopping frontage identified, the change of use of A1 (retail) premises will not be permitted, unless it can be demonstrated that the unit is not suitable for continued A1 use, the proposed use will maintain or enhance the vitality and viability of the area and it would not have a significant adverse impact on the amenity of adjacent residents or businesses'.

Then, one of the key principles for development in centres is that 'new residential, retail, leisure, culture, tourism, office development and community facilities that contribute to the vitality and viability of designated centres will be promoted and supported.

- 6.8 Therefore, it is considered that proposals supported in principle within the City Centre Boundary and Primary Shopping Area of Gloucester City Centre are those, which can demonstrate that can support vitality and viability, as well would not have a significant adverse impact on the amenity of adjacent residents or businesses’.
- 6.9 The application site forms the left-hand commercial unit within a row of three units. A retail unit Hallmark Cards is immediately adjacent and there is a further vacant retail unit within the existing row of three. Immediately to the south-west there is a large bank; whereas directly opposite the application site is a mobile phone shop with an adjacent vacant retail unit. There are also various restaurants and pubs within proximity to the site. Some of those commercial uses are contributing to the local night economy.
- 6.10 The application premises lie within the defined Primary Shopping Area of Gloucester City Centre although a former use of the site is a longstanding non-retail use in form of a bank (A2 use class within a former Use Class Order). Consequently, the proposed works would not result in net loss of a retail space within the Primary Shopping Area of Gloucester City Centre.
- 6.11 Furthermore, the existing retail-non-retail split will be maintained, and a vacant unit would benefit from its active use again. The proposed works would result in aesthetic improvements to the frontage and the creation of 6-7 new jobs.
- 6.12 Customers that are likely to be attracted to the proposed premises would maintain the vitality of Gloucester City Centre. The vibrancy of the area would be extended into the evening when most shops are closed.
- 6.13 Consequently, the loss of a non-retail unit cannot be resisted by the adopted Policy SD2, which protects retail uses only. Furthermore, it is considered that addition of an amusement centre would sustain and enhance the vitality and viability of the Primary Shopping Area by adding footfall into the locality.
- 6.14 Nevertheless, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 amend the Town and Country Planning (Use Classes) Order 1987 and introduced significant changes to the system of 'use classes'. The new Class E encompasses commercial, business and service. Therefore, both A1 retail and A2 (financial and professional services) under a former Use Class Order 1987.
- 6.15 The government concluded that the main driver of change has been the need to enable a repurposing of buildings on high streets and town centres. The new Class E allows for a mix of uses to reflect changing retail requirements. It allows a building to be used flexibly by having a number of uses taking place concurrently or by allowing different uses to take place at different times of the day. Changes to another use, or mix of uses, within this class will not require planning permission.
- 6.16 From 1 September 2020 onwards, if a building or other land is being used in a way falling within Class A1 (shops), A2 (financial and professional services), A3 (restaurants and cafés) or B1 (business) then it will be treated as though it is being used for a purpose specified in the new Class E. Change of use to another use within Class E will be allowed without the need for planning permission.

- 6.17 However, some uses which were previously given their own use class have been moved into the 'sui generis' category, meaning they will from now belong to no specific class. This includes a proposed use of an adult gaming centre, which now is considered 'sui generis'. As a result of that, changes to and from these uses are now subject to full local consideration through the planning application process.
- 6.18 The agent acting on behalf of an anonymous objector states that there are already 3 gambling premises within 145 metres and another 3 within 80 metres of the application site. They concluded, 'the proposed change of use would result in the unnecessary provision / excess of gambling premises which are already overprovided within the Primary Shopping Area and city centre. Accordingly, the proposals do not contribute to nor or enhance the viability or vitality of the city centre'.
- 6.19 As already stated in this report, it is considered that the proposed adult gaming centre will support the viability and vitality of the locality. The proposed change of use will bring a vacant unit back into use, which is crucial at the current time of economic uncertainty already visible in form of numerous vacant units within the Gloucester City Centre Boundary. In addition to that, the proposed use would likely generate linked trips with other local uses and services, such as shops, restaurants or other leisure facilities.
- 6.20 Similar uses were granted in the past via either delegated or appeal decisions. Those can be found within proximity to the site. A Public Inquiry granted in August 2002 (application refused ref. 01/00745/COU) at No. 25 Northgate Street (Change of Use from shop (Class A1) to Amusement Centre) shows that the Planning Inspector concluded that the change of use to an amusement centre would in fact maintain the vitality of the Conservation Area and would not harm the viability of the Primary Shopping Area of Gloucester City Centre.
- 6.21 Another permission for the 'Change of use from a shop (A1) to an adult gaming centre (Sui generis)' at Nos. 49 - 51 Northgate Street granted in 2009 under planning reference 09/00802/COU refers to a previous appeal decision for the same site where the Planning Inspector suggested that 'gaming centres commonly display some of the characteristics of retail use, in that they attract potential customers to the area'. Furthermore, the Inspector found sufficient evidence that adult gaming centres are acceptable within the main shopping area. Within this particular decision, the Planning Inspector referred to the impact of the accumulation of such uses in the primary shopping area, and concluded that the existence of other gaming arcades/amusement centres within proximity to the site cannot give a sufficient reason to refuse proposals that would normally be acceptable.
- 6.22 ***Design and impact upon the local area character***  
The NPPF states that new residential developments should be of high-quality design, create attractive places to live, and respond to local character integrating into the local environment. Policy SD3 requires all developments to demonstrate how they contribute to the principles of sustainability, Policy SD4 sets out requirements for high quality design, Policy SD6 requires development to protect or enhance landscape character while Policy SD10 requires housing of an appropriate density, compatible with good design, the protection of heritage assets, local character and compatible with the road network.

- 6.23 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that where an area is designated as a conservation area '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area*'.

Chapter 16 of the National Planning Policy Framework sets out the importance of protecting and enhancing the historic environment, and conserving heritage assets in a manner appropriate to their significance. In particular, paragraph 192 states that in determining planning applications, local authorities should take account of 'the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation'. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Policy SD8 of the JCS similarly seeks to preserve and enhance heritage assets as appropriate to their significance.

- 6.24 The Council's Conservation Officer was consulted and raised no objection in terms of the material and lighting to the revised signage where the internal lighting was removed, and is now acceptable. However, the officer considers that the proposed display signs show unattractive branding features.

- 6.25 The conservation officer also considers that the proposed Adult Gaming Centre set so close to the centre of the City is not conducive to the Heritage led regeneration of the heart of the City. The officer further considers that the change of use will encourage anti-social behaviours such as littering and gambling addiction which will still be a negative and harmful impact on the Conservation Area. As such, the Conservation Team do not consider that the change of use would result in an 'enhancement' on Conservation grounds. This is mainly due to several existing Adult Gaming centres within proximity.

- 6.26 Although the points highlighted by the Conservation Officer are noted, the case officer cannot find any planning evidence suggesting that the proposed works would have an adverse impact on anti-social behaviors or would increase local crime resulting in the deprivation of Gloucester City Centre. Then, the impact of the accumulation of such uses in the primary shopping area was already discussed in this report.

- 6.27 In terms of concerns regarding branding design raised by the Conservation Officer, it should be noted that *The Town and Country Planning Act 1990* section 221 refers to powers to make different advertisement regulations for different areas. One of these is conservation areas, defined as Article 1(5) land in the General Permitted Development Order and another is areas of special control. However, there is nothing that I can find in the Control of Advertisements Regulations 2007 to suggest conservation areas should be regarded as areas of special control. Clarification comes in Planning Policy Guidance 19 section 22, which states that the designation of a locality as a conservation area does not necessarily justify its also being defined as an area of Special Control of Advertisements. It goes on to say that Local Planning Authorities should use advertisement controls flexibly in such areas, bearing in mind that many conservation areas are thriving commercial centres where advertisements are to be expected. There are, however, some additional levels of control for conservation areas within the Advertisement Regulations, for example illuminated advertisements on business premises, flag advertisements and hoardings.



- 6.28 Regulation 4(3) of the Control of Advertisements Regulations 2007 states that "Unless it appears to the local planning authority to be required in the interests of amenity or public safety, an express consent for the display of advertisements shall not contain any limitation or restriction relating to the subject matter, content or design of what is to be displayed." Although this Regulation is discretionary and does not in fact refer to refusals of consent, its intention is clearly to say that advertisement control should not normally extend to the particular lettering or stylistic devices which are used. Planning Policy Guidance recognises the issue of unsympathetic logo designs etc. and advises that such designs should be moderated in sensitive areas, while stating that corporate advertising should not be refused elsewhere simply because a local authority dislike the design.
- 6.29 Given a central location of the application site surrounded by numerous retail uses and local services, even being set within a Conservation Area, it is hard to establish a uniform design and theme of advertisement displays. Corporation logos of nationwide brands and those more local can be found along this part of the Conservation Area. Some designs of the corporation logos may be disliked by someone and some not. Although the choice of logo can be questioned, it would be unreasonable and unsustainable to refuse the application only based on a design of the business logo which is disliked.
- 6.30 As such, the proposals accord with Section 16 of the National Planning Policy Framework and JCS Policies SD4 and SD8, and would meet the requirements of the statutory duty of Section 72(1) of the 1990 Act.
- 6.31 **Traffic and transport**  
The NPPF requires that development proposals provide for safe and suitable access for all and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Policy INF1 of the JCS requires safe and accessible connections to the transport network
- 6.32 The proposed change of use would not be materially different from the existing land use and would generate similar pedestrian movements in terms of expected footfall. The site is well located within the city centre with excellent other sustainable transport options. The proposal can therefore be considered acceptable in accordance with policy INF1 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017).
- 6.33 **Residential amenity**  
Paragraph 17 of the NPPF provides that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is reflected in Policy SD14 of the JCS which requires that new development must cause no harm to local amenity including the amenity of neighbouring occupants.
- 6.34 The application site is surrounded by predominantly commercial uses, some of which operate until late hours (pubs and restaurants) or even 24 hours (gym). Given the commercial nature of the surroundings, it is not considered that the proposed change of use would adversely impact residential amenities. There are no residential amenities on the upper floors of the application premises, neither on the upper floors of the adjacent commercial uses.
- 6.33 The supporting brochure confirms that the premises would not serve alcohol and intoxicated customers would not be allowed the entry to the venue. Only background music would be played within the premises similar to this, which can be found in nearby shops, as well as there will be no tannoy systems.

6.34 The nearest residential properties are the flats at first and second floor level at 12-14 Northgate Street, although those residents will only be adjacent to the rear yard area, which is immediately adjacent to other neighbouring commercial uses. Other nearby residential amenities are set some 40 metres to the southwest of the site. Given the commercial nature of the surroundings and location of nearby properties, it is not considered that the proposed change of use would adversely affect local residents warranting planning refusal.

6.35 In addition to that, the overspill of noise from customers leaving the premises into the surrounding streets during late evening and night hours is noted. To address such concerns, the applicant agreed to revise initially proposed 24 hours operation to limited hours. Such details would be conditioned. The proposal is therefore considered to be acceptable in terms of amenity in accordance with policy SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017).

6.36 ***Economic considerations***

The construction phase would support employment opportunities and therefore the proposal would have some economic benefit. Further, paragraph 3.1.9 of the JCS identifies that it is important to ensure that sufficient housing is made available to support the delivery of employment and job growth. In the context of the NPPF advice that 'significant weight should be placed on the need to support economic growth through the planning system', this adds some weight to the case for granting permission.

6.37 ***Conclusion***

This application has been considered in the context of the policies and guidance referred to above. The proposal is consistent with those policies and guidance in terms of design, materials, highway safety implications, impact upon the amenity of any neighbours and the local area; the proposal is acceptable and accordingly it is recommended that planning permission be granted.

7.0 **RECOMMENDATION OF THE CITY GROWTH AND DELIVERY MANAGER**

7.1 That planning permission is GRANTED subject to the following conditions;

7.2 **Condition 1**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason**

Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**Condition 2**

The development hereby permitted shall be carried out in accordance with the application form, planning statement and drawing numbers:

- NGT-GL-01 rev. A Existing Ground Floor Plan;
- NGT-GL-02 rev. A Existing First and Second Floor Plans;
- NGT-GL-07 rev. A Proposed Ground Floor Plan;
- NGT-GL-08 rev. A Proposed First and Second Floor Plans;
- Site Block Plan received on 23 April 2021
- NGT-GL-09 rev. B Proposed Fascia and hanging sign details;

; except where these may be modified by any other conditions attached to this permission.

**Reason**

To ensure that the development is carried out in accordance with the approved plans.

**Condition 3**

The use hereby permitted shall only be open 8am until midnight Sunday (including bank holiday) to Thursday and 8am to 1am Friday-Saturday.

**Reason**

To protect the noise climate and amenity of local residents.

**Condition 4**

Deliveries to, and collections from, the development hereby approved shall not be made outside the following hours 7pm to 7am weekdays, 6pm to 7am Saturdays with no deliveries on Sundays and Bank Holidays.

**Reason**

To protect the noise climate and amenity of local residents.

**Person to Contact:** Piotr Kulik (01452 396905)

Planning Application: | 21/00481/FUL

Address: | 5 Northgate Street Gloucester  
GL1 2AH

Committee Date: | 06/07/2021

