

<u>No:</u>	BH2021/01276	<u>Ward:</u>	Queen's Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	9 - 10 St James's Street Brighton BN2 1RE		
<u>Proposal:</u>	Change of use of ground floor from betting shop (Sui Generis) to adult gaming centre (Sui Generis) and associated shopfront alterations.		
<u>Officer:</u>	Joanne Doyle, tel: 292198	<u>Valid Date:</u>	08.04.2021
<u>Con Area:</u>	East Cliff	<u>Expiry Date:</u>	03.06.2021
<u>Listed Building Grade:</u>	<u>EOT:</u>		
<u>Agent:</u>	Planning Potential Ltd. Magdalen House 148 Tooley Street London SE1 2TU		
<u>Applicant:</u>	Merkur Slots UK Ltd C/o Planning Potential Ltd. Magdalen House 148 Tooley Street London SE1 2TU		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Block Plan	-	-	8 April 2021
Proposed Drawing	SJS/BGN/04	B	8 April 2021
Location Plan	SJS/BGN/05	A	8 April 2021
Proposed Drawing	SJS/BGN/08	-	8 April 2021
Report/Statement	NOISE IMPACT ASSESSMENT	-	8 April 2021

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

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. All activities and operations associated with the adult gaming centre shall take place only between the hours of 07:00am and 00.00 on any day, including Bank or Public Holidays.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

4. No customers shall remain on the premises outside the hours of 07.00am to 00.00 daily and no activity within the site shall take place between the hours of 00.00 and 07.00am daily.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
5. The use hereby permitted shall not be open to customers except between the hours of 07:00am and 00.00 on Mondays to Sundays, including Bank or Public Holidays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
6. Prior to the occupation of the building for the use hereby permitted, noise mitigation measures shall be implemented in strict accordance with the acoustic design criteria, review and recommendations contained within "Noise Assessment" produced by Archo Consulting, Reference: PR2001_42_FINAL and Dated: 30/03/2021, specifically the remediation measures recommended in Table 1 on pages 5 and 6 of the assessment.
Reason: To safeguard the amenities of the existing properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
7. Amplified music or other entertainment noise from within the premises shall not be audible from outside the proposed premises at any time.
Reason: To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.
3. The applicant requests Hours of Opening - 07.00 - 23.59 Monday to Sundays including Bank Holidays. If they wish to serve alcohol for consumption either on or off the premises and/or serve food after 23.00hrs, in accordance with the provisions of the Licensing Act 2003, the operators would have to apply for a premises licence.

The applicant should contact Brighton & Hove City Council's Licensing team for further information:

Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP. Telephone: 01273 294429, email: ehl.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing

2. SITE LOCATION

- 2.1. This application relates to a ground floor commercial unit, located on the northern side of St James's Street. The upper floors are in residential use, accessed from a separate door adjacent to the shopfront. To the south of the unit is a supermarket, while to the north is a commercial unit at ground floor with residential above.
- 2.2. The application site lies within the 'primary frontage' of the St James's Street District Centre, as identified in the Local Plan and City Plan Part 1.
- 2.3. The site is located within the East Cliff Conservation Area. Number 9 St James's Street is a Grade II listed building.

3. RELEVANT HISTORY

- 3.1. BH2021/01278- Display of 2no externally illuminated fascia signs and 1no externally illuminated hanging sign. Under Consideration.
- 3.2. BH2021/01270- Internal alterations to ground floor including new shop fit-out to replace existing, repainting of external shopfront & installation of signage. Under Consideration.
- 3.3. BH2013/01203- Installation of 3no air conditioning condenser units, 2no satellite dishes and associated timber screen to flat roof to rear elevation. Approved 18.09.2013.
- 3.4. BH2013/01202- Installation of 3no air conditioning condenser units, 2no satellite dishes and associated timber screen to flat roof to rear elevation. Approved 18.09.2013.
- 3.5. BH2013/00985- Display of non-illuminated fascia sign to No 9 St James's Street. Approved 08.07.2013.
- 3.6. BH2013/00984- Installation of new shopfront to No 10 St James's Street. Approved 08.07.2013.
- 3.7. BH2013/00983- Display of 2no non-illuminated fascia signs and 1no externally illuminated projecting sign. Approved 08.07.2013.
- 3.8. BH2013/00764- Internal alterations to layout to facilitate change of use from dental surgery (D1) to licensed betting office (A2) at ground floor level. Approved 29.05.2013.
- 3.9. BH2013/00763- Change of use from dental surgery (D1) to licensed betting office (A2) at ground floor level. Approved 29.05.2013.

- 3.10. BH2012/01365- Internal and external alterations incorporating shop fitting works, alterations to existing shopfront and replacement and upgrading of existing air conditioning units and extraction ducting. Approved 06.08.2012.
- 3.11. BH2012/01364- Display of 2no externally illuminated fascia signs. Approved 13.07.2012.
- 3.12. BH2012/01363- Internal and external alterations incorporating shop fitting works, alterations to existing shopfront, replacement and upgrading of existing air conditioning units and extraction ducting and display of 2no externally illuminated fascia signs. Approved 06.08.2012.
- 3.13. BH2012/00980- Change of use from dental surgery (D1) to retail (A1) and associated alterations. Approved 06.08.2012.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the change of use of the ground floor from a betting shop (Sui Generis - within no use class) to an adult gaming [slots, bingo etc.] centre (Sui Generis), and associated shopfront alterations.
- 4.2. The application information notes that the unit is currently empty and was formally occupied by William Hill bookmakers and has been vacant since their departure in September 2019.

5. REPRESENTATIONS

- 5.1. Eight (8) letters of representation have been received objecting to the proposal for the following reasons:
- Impacts on vulnerable people of the area
 - Encouraging gambling
 - The street needs to be improved not damaged
 - Enough issues with anti-social behaviour and addictions
 - The proposal will add to the issues within the area
 - No need for another gaming centre with similar establishments in the area
 - Not a positive attribute to the community
 - Should encourage other initiatives
 - Detrimental to property value within a conservation area and local community
 - Site should be used for new ventures
- 5.2. **Ward Councillor Childs** has objected to the proposal.

6. CONSULTATIONS

- 6.1. **Heritage:** No objection Scheme is satisfactory.

- 6.2. **Environmental Health:** No objection Satisfied that the detail in the Noise Assessment is sufficient subject to condition.
- 6.3. **Sustainable Transport:** Verbal No objection as trips unlikely to increase.
- 6.4. **Sussex Police:** Comment The premises should be conditional with regards to opening hours and design implementation.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).
- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP3	Employment Use
CP4	Retail Provision
CP9	Sustainable Transport
CP12	Urban design
CP15	Heritage
CP18	Healthy City
SU9	Pollution and nuisance control
SU10	Noise nuisance
QD27	Protection of amenity

Brighton and Hove Local Plan (retained policies March 2016):

TR7	Safe development
TR14	Cycle access and parking

SU10	Noise nuisance
QD14	Extensions and alterations
QD27	Protection of amenity
QD10	Shopfronts
SR5	Town and district shopping centres
SR10	Amusement arcades/ centres
HE1	Listed buildings
HE3	Development affecting the setting of a listed building
HE 6	Development within or affecting the setting of conservation areas

Brighton & Hove City Plan Part Two (CPP2) (emerging)

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the key CPP2 policies considered in determining this application is set out below where applicable.

DM12	Changes of Use within Regional, Town, District and Local Shopping Centres
DM20	Protection of Amenity
DM21	Extensions and alterations
DM23	Shop Fronts
DM26	Conservation Areas
DM27	Listed Buildings
DM29	The Setting of Heritage Assets
DM33	Safe, Sustainable and Active Travel
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD09	Architectural Features
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of development, the impacts of the proposal on the listed building and the character and appearance of the conservation area, impact on amenity and highways issues.

Principle of Development:

- 9.2. The proposed use of the premise is from betting shop (Sui Generis) to adult gaming centre (Sui Generis).
- 9.3. The intention is for the unit to function as an adult gaming centre (AGC). A planning brochure has been submitted (Merkur Slots Planning Brochure) which shows that the premise would be fitted out with slot machines, bingo machines

and tablets. The application states that the AGC would offer a range of low stake gaming and electronic bingo.

- 9.4. The application lies within the primary frontage of the St James Street District Centre therefore policy SR5 of the Local Plan applies. The policy states that changes of use away from A1 will be permitted provided that certain criteria are met;
- a. a clear predominance of Class A1 uses would be maintained;
 - b. as a result of the proposal there would not be a significant break in the shopping frontage of more than 15 metres;
 - c. it would have a positive effect on the shopping environment of the area by encouraging combined trips and attracting pedestrian activity to the centre;
 - d. the development would not be materially detrimental to the amenities of occupiers of nearby properties or the general character of the area;
- 9.5. The previous use as a betting shop (Sui Generis) is not a retail/convenience unit which policy SR5 seeks to protect, and there would be no change to the number of Class A1 (as was - now Class E) uses in the frontage. There is therefore no conflict with either criteria (a) or (b). It is not considered that the use would have a negative effect on the shopping environment of St James's Street, or certainly not to a greater degree than the existing use, and it may encourage linked trips to other units in the centre. There are considered to be no increase in impact on amenity as a result of the use, subject to recommended conditions, in compliance with criteria (c) and (d).
- 9.6. The proposal is therefore in compliance with policy SR5 of the Local Plan.
- 9.7. The scheme proposes to provide commercial use at ground floor level with no loss of employment floorspace, in accordance with City Plan Part 1 Policy CP3.
- 9.8. Policy SR10 of the Local Plan relates to amusement arcades/centres, seeking to ensure that these centres are located in certain areas and particularly outside the prime frontage of shopping centres. The focus of this policy regards maintaining the vitality of the shopping centres. The policy lends itself to the provision of large amusement arcades typically found within tourist/seafront locations. Given the aims and supporting text of policy SR10, the proposal for an adult gaming centre, considered more akin to a high street casino, is not considered to fall within the description of an "amusement arcade" for the purposes of policy SR10 and therefore the policy is not considered to apply to this application.
- Design and Appearance:
- 9.9. CPP1 Policy CP12 expects all new development to raise the standard of architecture and design in the city, establish a strong sense of place by respecting the character of existing neighbourhoods and achieve excellence in sustainable building design and construction.
- 9.10. Policy CP15 of the Brighton & Hove City Plan Part One states how the Council will ensure that the city's built heritage guides local distinctiveness for new development in historic areas and heritage settings. Policy HE1 of the Local Plan

explains how proposals involving the alteration or extensions of a listed building will only be permitted where the proposal would not have any adverse effect on the architectural and historic character or appearance of the interior or exterior of the building or its setting. Policy HE6 of the Local Plan requires proposals within or affecting the setting of a conservation area to preserve or enhance the character or appearance of the area.

- 9.11. When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.12. Case law has held that the desirability of preserving a listed building or its setting or the character or appearance of a conservation area must be given "considerable importance and weight".
- 9.13. Part of the site, namely number 9 St James's Street, is a Grade II Listed Building. It is listed as a terraced house (now with ground floor shop front) of c1825, probably designed by Amon Wilds and Charles Augustin Busby, who were responsible for much speculative development in Brighton and Hove in the regency period. Number 10 is much plainer and has a Victorian canted bay; it forms a largely uniform terrace of numbers 10-14. The two properties have been combined at ground floor level and share a late 20th or early 21st century timber shopfront in pseudo traditional style with heavy corbel brackets to the fascia and a recessed entrance. The ground floor interior is of little or no significance due to past alterations.
- 9.14. The proposal seeks consent for the repair and redecoration of the shopfront and the repainting of the shopfront to facilitate the change of use. The works would involve repairing the existing doors, shopfront frames and fanlight frames and repairing of the existing stallrisers and pilasters.
- 9.15. The Heritage Officer has no objection to the proposed works as the repair and redecoration of the shop front is welcomed and with the proposed black finish appropriate and the internal alterations to the modern shop unit are considered to have a neutral impact on the significance of the listed building.
- 9.16. An associated Listed Building Consent application for these works is recommended for approval. A separate application has been submitted for advertisement consent for the proposed signage and is under consideration.
- 9.17. The proposed alterations would preserve the appearance and character of the listed building, the East Cliff conservation area and wider street scene, in accordance with policies HE1, HE3 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One and policies DM26, DM27 and DM29 of CPP2 (of which can be given significant weight).

Impact on Amenity:

- 9.18. Policy QD27 of the Brighton & Hove Local Plan, and emerging Policy DM20 of City Plan Part 2 (which can be given significant weight) state that planning permission for any development or change of use will not be granted where it

would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

- 9.19. Policy SU10 of the Local Plan and emerging Policy DM40 of City Plan Part 2 (which can be given significant weight) require proposals for new development to minimise the impact of noise on the occupiers of neighbouring properties and the surrounding environment. Where necessary, planning conditions will be imposed in order to specify and secure acceptable noise limits, hours of operation and attenuation measures.
- 9.20. The adjacent units are in commercial use at ground floor level with Morrison's supermarket to the south and a cafe use to the north at ground floor with residential above. The upper floors of the application site are in residential use.
- 9.21. An adult gaming centre has the potential to introduce an increase in noise and disturbance compared to the existing use as a betting shop given a potentially more intensive use of the property. However, the unit is sited with the St James's Street District Centre containing many other commercial uses.
- 9.22. Environmental Health Officers have raised no objection to the proposal. In support of this application, Noise Assessment has been submitted, concluding that with appropriate mitigation, the impact on the closest residential units would be acceptable:
- 9.23. "The assessment showed that the separating elements will attenuate noise levels sufficiently to comply with the criteria of NR20 and also the criteria stipulated within BS8233:2014 for internal habitable rooms in the closest residential unit. This is conditional upon rectification of all defects identified in Table 1. Once all defects identified in Table 1 have been rectified the site will be suitable for 24-hour operation. This is also true based on the site assessment of patron behaviour during the most noise sensitive period of the night (1am to 3am) detailed in Section 4.4."
- 9.24. The assessment has assessed requirements for sound insulation based on a worst case scenario and the detail within the assessment is sufficient. A condition has been attached so that the measures outlined within the Noise Assessment are implemented in accordance with the submitted details.
- 9.25. The proposed opening hours of the premise are between 07.00am and 00.00 which is considered acceptable for the type of use and location and consistent with the opening hours of the premises within the immediate area. A condition is also therefore recommended regarding hours of operation.
- 9.26. Subject to the imposition of these conditions it is considered that the proposal would be acceptable in terms of there being no significant or adverse impacts or loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health, and would thereby accord with Policy QD27 and DM20 of CPP2 which can be given significant weight. The council would also retain the authority to investigate

under the Environmental Protection Act 1990 should any noise complaints be received post implementation of any consent and conditions.

Sustainable Transport:

- 9.27. The proposal is unlikely to result in a significant increase in trips due to the change of use and there would not be a severe impact on the surrounding highway.
- 9.28. No cycle parking is proposed however it is recognised that site constraints limit the opportunities for providing it in this case and therefore no scheme for cycle parking is recommended by condition.

10. EQUALITIES
None identified