Appellants Final Comments – 3-4 Cannaught Buildings, Worthing,

Appeal Ref: 6006574

The purpose of these final comments is to respond the LPA's Statement of Case and third-party representations received in respect of this appeal.

For context, the appeal is against the refusal by planning committee of a planning application seeking the change of use of the basement and ground floor from retail (Class E) to an Adult Gaming Centre (Sui Generis) at 3-4 Cannaught Buildings, Worthing.

Before responding to the detailed points raised by the Local Planning Authority and third-party representations, it is important to clarify the scope of the appeal. This appeal relates solely to a change of use. No external alterations are proposed as part of the application.

A number of representations, including those made by the LPA, refer to the proposed painting of the shopfront dark grey. Prior to planning committee and the determination of the application, the Appellant confirmed that external painting did not form part of the change of use application. An updated shop display manifestation plan (920-PL-106 Rev 03) was subsequently submitted to the Council showing the exterior as existing. The shop display manifestation plan was provided for illustrative purposes only, to demonstrate how an active frontage would be achieved in operation. The purpose of the plan is to show how the internal arrangements (which do not require planning permission) are set behind the existing glazing and that no vinyl will be applied to the glazing. No external works are proposed as part of this appeal and the adverts that are indicated on the drawing are proposed as part of a separate application/appeal. Accordingly, references to external alterations are misplaced and should carry no weight in the determination of this appeal for the change of use.

It is important to note in any event that permitted development exists for external painting and therefore planning permission is not required for the painting of this building in a different colour by any operator that occupies it.

Response to LPA Statement

Vitality and Viability of the Town Centre and Active Shopfront

The LPA asserts that the proposed use would fail to enhance vitality and viability due to the alleged creation of a "blank frontage" and the nature of the use itself.

Policy DM13 of the Worthing Local Plan does not prohibit Adult Gaming Centres. Rather, it supports town centre uses that maintain active frontages, contribute to footfall, and complement the function of the centre.

The Appellant's evidence – including independent ESA Retail analysis – demonstrates that Merkur Slots AGCs generate comparable, and in many cases higher, levels of footfall than traditional Class E uses, including financial & professional institutions such as the appeal unit.

The evidence also demonstrates that pedestrian good levels of pedestrian flow past Merkur Slots venues are maintained, and that they lead to linked trips elsewhere within the centre.

The LPA does not mention this empirical evidence at all in their statement, and claim that *"a gaming centre does not provide goods or services which support linked shopping trips'*, and that an AGC risks *'discouraging daytime trade*'. This is completely at odds with the ESA data submitted with the application.

The LPA also claims that an AGC at the appeal site will deter family-orientated visitors and businesses. There is absolutely no evidence to support this claim and given that there are similar uses already in the centre along with a range of uses and businesses, the evidence on the ground suggests that this scenario would not occur.

The LPA places significant emphasis on assertions that the proposal would result in a "blank" or "closed" frontage.

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There is no definition of what an active shopfront/frontage is in the local plan. It is important to note that footfall and customer activity is part of creating an active shopfront, not just the design of the internal window display – this is something the LPA have failed to acknowledge.

The submitted Proposed Display Manifestation Plan (Rev 03) shows that the proposed AGC will incorporate internal TVs displaying details of the gaming machines on offer inside as part of the window display, encouraging people into the unit or passers-by to stop and look in the window, in much the same way that mannequins are used to display clothes sold in clothing shops.

Some retailors and other Class E operators allow views into the unit, and some don't. It is important to recognise that that many non-traditional uses such as offices, children's nurseries and gyms can now occupy retail units in shopping frontages without planning permission and any control over how they choose to have their window displays/internal frontage.

In this case, there are areas of the shopfront that are open allowing views through into the unit (areas on the manifestations plan not coloured blue). As such, the AGC will contain both a shop display and opportunities to look through into the unit. The appeal unit is currently vacant and makes no contribution to street activity. The proposed town centre use would reintroduce activity, footfall and visual engagement at ground floor level.

Appeal Inspectors have consistently rejected arguments that Adult Gaming Centres inherently result in dead or inactive frontages due. At a former Barclays Bank, 62 Station Road, Hayes, the Inspector found that AGCs do not create dead frontages or reduce pedestrian movement, attaching weight to survey evidence showing that such uses maintain street‑level activity and visual engagement. These findings were reached notwithstanding the presence of internal displays and screens.

Similarly, at 47–48 Sidwell Street, Exeter, the Inspector accepted that internal screens and displays set behind glazing would provide visual interest and represent an improvement over a vacant unit, concluding that they would not result in visual harm nor undermine street activity.

Safe and secure town centre environment

The LPA contends that the proposed change of use would fail to contribute positively to a safe and secure town centre environment, citing Policy DM13. This position is not supported by site‑specific or empirical evidence. The LPA also state that overconcentration of nighttime uses can create significant problems but do not provide any evidence of how the proposals would result in a harmful overconcentration of such uses in this instance.

Policy DM13 does not preclude Adult Gaming Centres, nor does it presume that such uses are inherently harmful. It requires an evidence-based assessment of whether a proposal would, either individually or cumulatively, give rise to demonstrable harm to safety, amenity or the functioning of the centre.

Importantly, Sussex Police raise no objection to the proposal and the Council has granted a 24-hour licence which considers matters of crime and safety as one of the licensing objectives (again there were no objections from the policy to the licence application). Further, the appellant submitted secure by design measures which are installed as standard. The LPA makes no reference to any of these points in their statement.

The LPA state that the proposals would not create natural surveillance because of the 'closed' nature of the frontage. However, as discussed above, elements of the shopfront do allow views through into the unit. Further, customers arriving and leaving contributes to natural surveillance.

The LPA go on to state that AGCs can contribute to problem gambling and social vulnerability, often affecting the most economically at risk-groups. As discussed above, the Council have granted a 24-hour licence and as part of that process were satisfied the licensing objectives which include protection of vulnerable people would be complied with.

Residential Amenity and Noise

The LPA contends that the proposed change of use could adversely affect residential amenity, notwithstanding the submission of a comprehensive Noise Impact Assessment and the absence of objection from Environmental Health officers. This position is not supported by technical evidence.

In full compliance with Policy DM22 and Policy DM13, the Appellant submitted a detailed Noise Impact Assessment which considers internal noise, external noise break‑out, patron behaviour and late‑night operation against the prevailing town centre noise environment. The assessment demonstrates that the proposed use would not give rise to unacceptable noise impacts, subject to standard mitigation measures which can be secured by condition if deemed necessary. Environmental Health officers raised no objection to the proposal on noise or amenity grounds. Importantly, no evidence has been submitted by the LPA to dispute the findings of the noise report.

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The appeal site is located within an established town centre environment characterised by late-trading commercial and leisure uses, where a degree of evening and night-time activity is already present. Indeed, the Council point to various uses operating until 3am and 4am. Against this baseline, the Noise Impact Assessment confirms that the proposed lawful use would operate without materially increasing noise levels or resulting in unacceptable effects on nearby residential occupiers.

In the absence of any cogent or substantiated evidence to the contrary, the proposal has been demonstrated to comply with the residential amenity requirements of Policies DM13 and DM22. There is therefore no planning basis to conclude that the proposed change of use would result in unacceptable harm to residential amenity.

Reason for Refusal 2

Character, Visual Amenity and the Historic Environment

Reason for Refusal 2 is not justified. The appeal seeks permission for the change of use only. No external alterations are proposed as part of the application. As discussed above, the Council's reference to external painting and signage is of no relevant to the appeal proposals.

The LPA's case is that an Adult Gaming Centre by its nature and external appearance is an inappropriate use where heritage assets are involved. As discussed in the appellant's appeal statement Merkur Slots have obtained consent to operate within local listed buildings, statutory listed buildings and conservation areas up and down the country. Many evening and night-time uses are common within listed buildings and in towns covered by conservation areas.

National policy recognises the importance of keeping historic town centre buildings in viable, active use. In this context, the continued vacancy of a unit poses a greater risk to character and appearance than an active town centre use that involves no physical change as part of this appeal.

Other Matters

The LPA suggest that continued marketing could secure an alternative occupier for the appeal unit. This carries limited weight. There is no policy requirement within Policy DM13, the Worthing Local Plan or national policy that obliges an appellant to demonstrate prolonged or indefinite marketing for a lawful town centre use, particularly where the principle of the loss of the existing Class E use has been accepted and does not form part of the reasons for refusal.

Conclusion

The Appellant does not agree with the Local Planning Authority's conclusions in respect of the planning balance. While the NPPF identifies economic, social and environmental objectives, these are to be delivered through the application of adopted development plan policies and are not freestanding tests against which individual proposals should be judged. The appeal proposal has been assessed against the relevant local plan policies and, for the reasons set out elsewhere, no substantive policy conflict has been demonstrated.

Assertions that the proposal fails to deliver social or environmental gains are not supported by evidence. No material harm has been identified to residential amenity, safety or the historic environment, nor has any evidence been submitted in response to the Appellant's Statement of Case. In contrast, the proposal would bring a vacant town centre unit back into active use in a highly sustainable location. When assessed against the development plan and the NPPF as a whole, there are no adverse impacts that would outweigh these benefits, and the planning balance therefore favours allowing the appeal.

LPA Suggested Conditions

Alongside the LPAs statement, the LPA have proposed a series of conditions should the Inspector allow the appeal. A response to each condition in turn can be see below:

Condition 1 (drawing numbers) – The Appellant is agreeable to a condition listing the approved drawings, subject to accuracy. The relevant drawings are:

- Proposed Basement Plan (920-PL-103 Rev 02)
- Proposed Ground Floor Plan (920-PL-101 Rev 02)

Condition 2 (Time limit) – The Appellant does not consider that a restriction on opening hours is justified. The application seeks 24-hour operation and is supported by a comprehensive Noise Impact Assessment. The Council's Environmental Health Officer raised no objection

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to 24-hour use, subject to mitigation, and no evidence has been provided to demonstrate that such operation would give rise to unacceptable impacts.

Notwithstanding this position, the Appellant acknowledges that the Inspector may consider it appropriate to impose a restriction. In that scenario, the LPA's proposed varying hours across the week would not be operationally feasible. A single consistent condition would be required, and the Appellant would be willing to accept:

- 09:00–02:00 daily

Condition 4 (Operational Management Plan) – The requirement for submission of a further management plan is not necessary. A detailed Operational Management Plan has already been provided within Appendix E of the submitted Noise Report, and these measures have been assessed as part of the application. It is standard practice for such measures to be secured by way of a compliance condition, rather than requiring a further submission.

The Appellant would therefore accept the following condition:

- "The development shall be implemented in accordance with the Operational Management Plan set out in Appendix E of the submitted Noise Report (PR2001_220_FINAL dated 12.09.25). The measures shall be retained and maintained thereafter."

Condition 5 – We do not consider this condition is required to make the development acceptable. In the event the Inspector considers a window display condition to be necessary, a compliance condition in accordance with the shop manifestations plan should be imposed as follows:

- "The shop display must be installed in accordance with the Proposed Display Manifestations Plan (Drawing: 920- PL- 106) (Rev 03)".

Condition 6 – The Appellant agrees that Secured by Design measures can be secured by condition, but the wording should reflect a standard compliance approach. The following is proposed:

- "The development shall be implemented in accordance with the security measures set out within the submitted Merkur Slots Secured by Design Measures Document. These measures shall be retained and maintained thereafter."

Condition 7 – The requirement for a pre-commencement condition is not necessary. The submitted Noise Report already identifies the required mitigation measures (Appendix C), and the Appellant has confirmed these will be implemented. As such, a compliance condition would be more appropriate and consistent with standard practice.

- "The development shall be implemented in accordance with the noise insulation measures set out in Appendix C of submitted Noise report (PR2001_220_FINAL dated 12.09.25). These measures shall be retained and maintained thereafter."

Condition 8 – The appellant is agreeable to this.

Response to Third Party Reps

As part of appeal ref: 6006574, 46 third party representations have been received, including a signed letter/petition which has 57 names on. Whilst the appellant appreciates the concerns raised, no substantial evidence relevant to the appellant and the proposals has been submitted. As a result, the claims made are wholly anecdotal.

Upon review of the third-party comments received, it is clear that there are several themes of concern that make up the objections received. These themes are as follows:

- Incompatibility of the proposed use with surrounding businesses
- Impact on the conservation area and nearby listed buildings
- Increase in noise and anti-social behaviour
- over-concentration of similar uses
- Increase gambling exposure to vulnerable people

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- Fail to achieve an active frontage

The appellant has covered these matters both as part of the statement of case and final comments above, however, for completeness would like to re-re-iterate the following:

Overconcentration

There is no mention of over-concentration/proliferation of uses or cumulative impact in the reasons for refusal. It is important to note that officers concluded the following in their committee report:

"Worthing Town Centre currently has 2 operational 'Gaming Centres': the Casino in the Guildbourne Centre which is an adult only centre and Connaught Leisure Ltd on 32-34 Marine Parade for family and adult entertainment. Planning Permission has also been granted by the Committee in July 2025 for an adult only arcade incorporating bingo at 82-84 Montague Street (AWDM/0371/25).

There is not therefore considered to be a high concentration of such uses within the Town Centre. Whilst it is accepted that a proliferation of 'gaming centres' can potentially detract from the vibrancy and attractiveness of town centres, it is not considered that this use is currently over-represented.

Although not significant in planning terms, the applicant intends that the proposed use would provide a slightly different offer to the casino, family gaming centre and approved adult bingo centre. It is not therefore considered that it would have a negative impact on the town centre's vitality."

The appellant agrees with this position and the proposed change of use will not give rise to an over-concentration of such uses that would be considered to be harmful.

Comments regarding Problem Gambling

It is noted that comments have been raised regarding problem gambling and the potential exposure of vulnerable individuals. These matters did not form part of the Council's reasons for refusal.

In any event, such matters are addressed through the separate licensing regime, under which the Appellant has already secured the necessary premises licence, including provision for 24-hour operation.

The Appellant's Statement of Case also includes a detailed response prepared by Regulus Partners, which addresses common misconceptions regarding problem gambling.

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