

## REGULATORY PANEL: 28 MARCH 2024

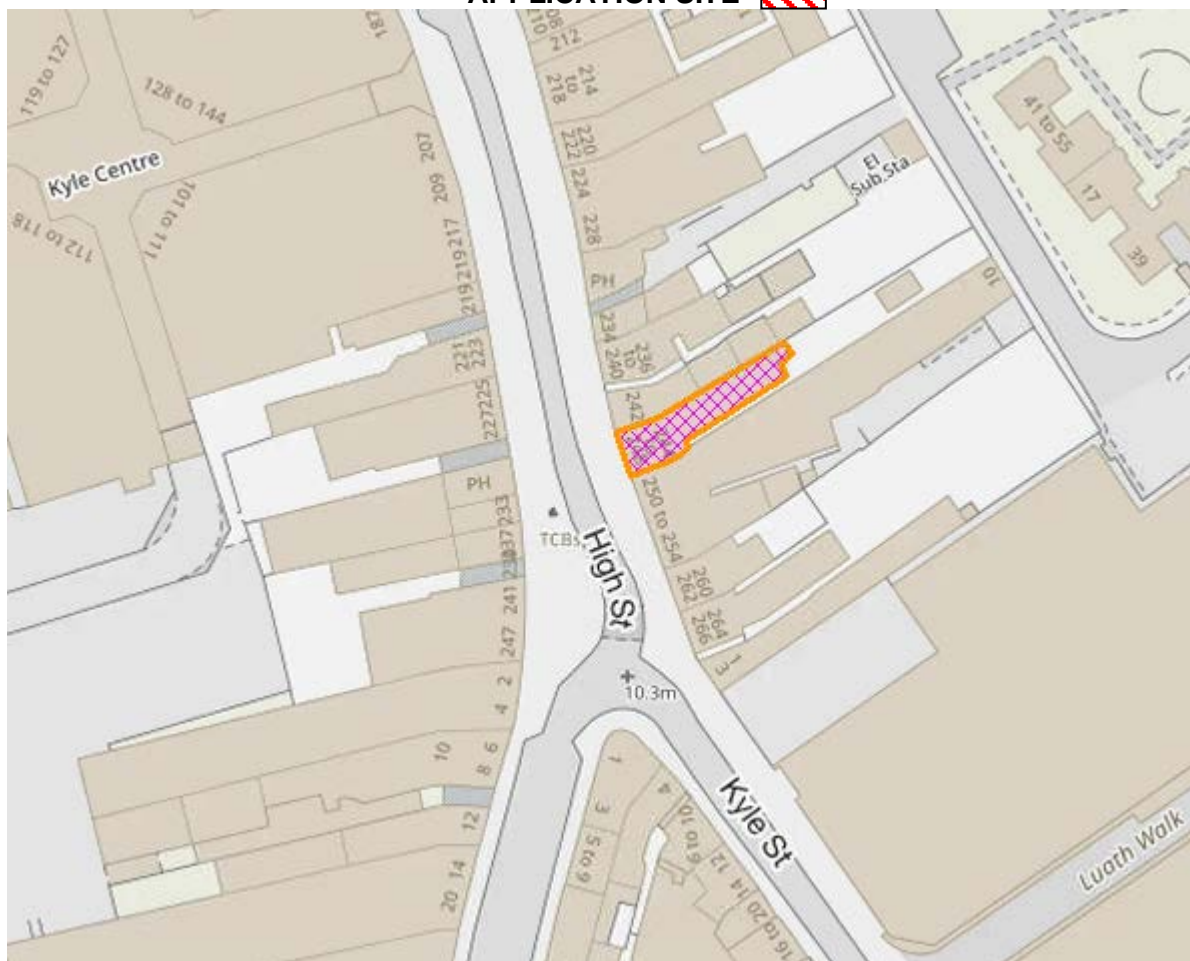
### REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

23/00954/APP

244 - 246 HIGH STREET AYR SOUTH AYRSHIRE KA7 1RL

#### Location Plan

APPLICATION SITE 



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#### Summary

Planning permission is sought for the change of use of a vacant class 3 (food and drink) unit to form an adult gaming centre. The application site at 244-246 High Street forms a ground floor commercial unit in an unlisted three-storey building situated within both the retail core of Ayr Town Centre and the Ayr Central Conservation Area. There are dwelling flats sited above the application site. The unit was last occupied by a bakery and has lain vacant for approximately four years.

The application has been assessed against various material planning considerations which includes the provisions of the development plan, consultations, representations received and the impact of the proposed development in the locality. The assessment concludes that the proposed development complies with the development plan and the proposals will not have a significant adverse impact on the amenity of the locality subject to conditions requiring noise mitigation measures to be installed/ carried out. The consultation responses do not raise any issues that would merit a recommendation of refusal of the application. Similarly, the issues raised in the 7 representations received, including one from Fort, Seafield and Wallace Community Council, have been considered and, subject to the recommended conditions being imposed with respect to noise mitigation measures, would not merit a recommendation of refusal of the application.

Considering the above and having balanced the applicant's rights against the general interest, it is recommended that planning permission be approved subject to conditions.

The application is required to be reported to the Council's Regulatory Panel, in accordance with the Council's approval procedures for handling planning applications and scheme of delegation, as the Planning Service has received a competent written objection from a Community Council, via their designated contact person(s), and the appointed officer is minded recommending a determination which is contrary to the views expressed by the Community Council.

A separate advertisement consent has been submitted for the erection of a fascia and projecting sign at the property. In accordance with the Councils' approval procedures for handling applications and scheme of delegation, as no objection has been received regarding that proposal, the advert application will be determined under delegated powers.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

**REGULATORY PANEL: 28 MARCH 2024**

<b>SUBJECT:</b>	<b>PLANNING APPLICATION</b>
<b>APPLICATION REF:</b>	<b>23/00954/APP</b>
<b>SITE ADDRESS:</b>	<b>244 - 246 HIGH STREET AYR SOUTH AYRSHIRE KA7 1RL</b>
<b>DESCRIPTION:</b>	<b>CHANGE OF USE OF A VACANT CLASS 3 UNIT TO FORM AN ADULT GAMING CENTRE.</b>
<b>RECOMMENDATION:</b>	<b>APPROVAL WITH CONDITIONS</b>

### APPLICATION REPORT

This report fulfils the requirements of Regulation 16, Schedule 2, paragraphs 3 (c) and 4 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

#### Key Information:

- The application was received on 21 December 2023.
- The application was validated on 21 December 2023.
- A Site Visit was carried out by the Planning Authority on 9 January 2024.
- Neighbour Notification, under Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, was carried out by the Planning Authority on 3 January 2024.
- A Site Notice was posted in the locality under Section 65 of Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) by the Planning Authority on 9 January 2024.
- A Public Notice, under The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) was placed in the Local Press on 9 January 2024.

#### 1. Proposal:

The application site is a ground floor unit of a three-storey building at 244-246 High Street, Ayr which is a town centre location and within the Ayr Central Conservation Area. The unit has been vacant for approximately 4 years and was last used as a Class 3 (cafe) use of Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended. The floors above comprise of dwellingflats.

The applicant proposes a change of use of the unit at the address to form an amusement arcade type use described by the applicant as an 'adult gaming centre' - a 'sui generis' use meaning it falls into a class of its own as it is outwith the defined limits of other use classes. External shopfront alterations are also proposed. More specifically the stall-risers are to be stripped back and it is proposed to install porcelain tiles and the entrance lobby floor to be retiled. The shopfront frames and entrance doors along with pilasters are to be re-sprayed.

The applicant/agent has submitted a supporting statement which outlines the proposed operating terms of the adult gaming centre as follows:

- The adult gaming centre would have no fixed odds betting terminals. The machines would offer stakes ranging from 10p to a maximum of £2 only. Electronic bingo tablets would also be on offer.
- The premises is intended to operate on a 24-hour basis.
- A 'Think 25' entrance policy is operated at venues whereby any persons who look under 25 must produce a form of identification (nobody under 18 years old will be allowed entry).
- Background music only will be played in the premises and there will not be any tannoy systems.
- Complementary refreshments, teas and coffees are to be provided (they do not hold an alcohol licence at the premises).
- The operation will employ between 6 and 12 staff.

The application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling of planning applications and scheme of delegation, as the planning application has received a competent written objection received from a Community Council, via their designated contact person(s), and the appointed officer is minded to recommend a determination which is contrary to the views expressed by the Community Council.

## **2. Consultations:**

**Council's Environmental Health Service** - Offers no objection subject to conditions.

**Ayrshire Roads Alliance** - No objection.

## **3. Submitted Assessments/Reports:**

In assessing and reporting on a Planning application the Council is required to provide details of any report or assessment submitted as set out in Regulation 16, Schedule 2, para. 4 (c) (i) to (iv) of the Development Management Regulations.

A comprehensive noise report has been submitted in support of the planning submission. The report states that a site survey and inspection was undertaken at the application site and recommendations have been made to improve the sound insulation performance. Since the closest noise sensitive receptors to the site are the residential flats above, the separating floor was a focus of the noise assessment. The survey shows large gaps present in many locations, exposing the floor to the flats above and joints were not sealed up. It is recommended that a new double layer of 15mm thick fireboard is affixed to the underside of the joists and all junctions are sealed with non-hardening sealant. In addition, a layer of 100mm thick mineral fibre insulation and a suspended grid mineral fibre ceiling be installed at 19mm thick. Acoustic perimeter seals around the frame and bottom of the entrance door to prevent unnecessary sound transmission to the outside and an automatic closer system for the door is also proposed.

Internal Noise Impact Assessment – an assessment of potential internal noise impact from 24-hour operation to the residential units above was undertaken. The assessment demonstrated that, once all rectification works are complete as captured above, the separating floor can attenuate operational noise levels sufficiently so that noise rating (NR) 20 will be achieved in the first-floor unit above.

External Noise Impact Assessment – an assessment of potential external noise impacts from 24-hour operation to the closest residential units (directly above) was undertaken. A series of case studies of patron behaviours have been undertaken from six different Merkur premises with 24-hour consent to assess if noise impacts could occur. Three of the sites had a residential unit directly above. The studies concluded that patrons are nearly always alone or in a pair and do not behave in a way that would cause disturbance to others. The assessment demonstrated that the external building façade can attenuate operational noise levels sufficiently so that Noise Rating (NR) 20 will be achieved in the closest noise sensitive receptor and maximum levels at the window are below the BS8233 criteria.

The Council's Environmental Health Service has no objection to the proposal subject to the recommendations in the noise report being implemented.

**4. S75 Obligations:**

In assessing and reporting on a Planning application the Council is required to provide a summary of the terms of any Planning obligation entered into under Section 75 of The Town and Country Planning (Scotland) Act in relation to the grant of Planning permission for the proposed development.

None.

**5. Scottish Ministers Directions:**

In determining a Planning application, the Council is required to provide details of any Direction made by Scottish Ministers under Regulation 30 (Directions requiring consultation), Regulation 31 (Directions requiring information), Regulation 32 (Directions restricting the grant of Planning permission) and Regulation 33 (Directions requiring consideration of condition) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, or under Regulation 50 (that development is EIA development) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

None.

**6. Representations:**

7 representations (from 6 households and Fort, Seafield and Wallace Community Council) have been received, which object to the proposed development. All representations can be viewed online at [www.south-ayrshire.gov.uk/planning](http://www.south-ayrshire.gov.uk/planning)

In summary, the following concerns have been raised:

- Impact on residential amenity,
- Concentration of use,
- Protecting the retail core centre,
- 24/7 trading use,
- Implications gambling use will have on the area and increase in anti-social behaviour,
- Undermine the health, wellbeing and amenity of the community.
- Concealed shop frontage.

In accordance with the Council's procedures for the handling of Planning applications the opportunity exists for Representees to make further submissions upon the issue of this Panel Report by addressing the Panel directly. A response to these representations is included within the assessment section of this report.

**7. Assessment:**

The material considerations in the assessment of this planning application are the provisions of the development plan, other policy considerations (including government guidance), objector concerns and the impact of the proposal on the amenity of the locality.

On 13 February 2023, Scottish Ministers published and adopted National Planning Framework 4 (NPF4). NPF4 sets out the Scottish Ministers position in relation to land use planning matters and now forms part of the statutory development plan, along with the South Ayrshire Local Development Plan 2 (LDP2) (adopted August 2022).

Sections 25(1) and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the development plan. The determination shall be made in accordance with the plan unless material considerations indicate otherwise. The application is determined on this basis.

Legislation states that in the event of any incompatibility between a provision of NPF4 and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); Section 24(3)). NPF4 was adopted after the adoption of LDP 2, therefore NPF4 will prevail in the event of any incompatibility.

(i) National Planning Framework 4 (NPF4)

The following policies of NPF4 are relevant in the assessment of the application and can be viewed in full online at [National Planning Framework 4 - gov.scot \(www.gov.scot\)](https://www.gov.scot/national-planning-framework-4):

Policy 7 Historic assets and Places

Policy 9 Brownfield, vacant and derelict land and empty buildings

Policy 14 Design, quality, and place

Policy 27 Cities, town, local and commercial centres (b) (i)

NPF4 and the policies which apply in the context of the development proposal subject to this planning application largely overlap with the policy considerations and requirements of LDP2. Whilst there are some differences in specific criteria requirements within certain consistent and overarching policies between NPF4 and LDP2, it is not considered that any of these would constitute an apparent material policy conflict which would require a particular policy of NPF4 to be considered in place of a policy in LDP2.

NPF4 emphasises the need to make efficient use of existing buildings, land and infrastructure and to redevelop rural and urban brownfield sites before greenfield sites. Brownfield land is defined in the NPF4 as including land occupied by redundant or unused buildings. In this regard, it is of note that the site is located within Ayr Town Centre. The site is considered to fall within the above noted NPF4 definition of brownfield land. It is considered that the application proposals represent the sustainable re-development and secure use of a vacant building within the town centre which is in accordance with the objectives of NPF4. NPF4 also takes a town centre first approach and supports proposals that will improve the vitality and viability of town centres and it is considered that the proposals are consistent with this.

NPF4 also emphasises the importance of Sustainability and Placemaking. In terms of 'Sustainability', this involves directing development to the right place, and not to allow development at any cost. The site is considered to represent sustainable development due to involving the re-use of an existing building within a settlement. Potential for impacts of this proposal on the amenity of neighbouring properties is discussed further below.

With regards to 'Placemaking', NPF4 states that planning should take every opportunity to create high quality places by taking a holistic and design-led approach which demonstrates the six qualities of a successful place these are; distinctiveness, safe and pleasant, welcoming, adaptable, resource efficient and easy to move around and beyond. It is considered that the proposal offers the opportunity to continue the use of a property located in a prominent location within the town centre without significant adverse impact on the character or townscape setting of the area. Matters of amenity are considered further below. The proposal is not considered to contravene the NPF4 in terms of 'Placemaking'.

The preservation of the historic environment is also a key consideration in NPF4. The application site is within the Ayr Conservation Area and the proposals are not considered to directly impact the character of the Conservation Area to any extent that would warrant refusal of these applications. This is outlined further below.

The provisions of NPF4 must, however, be read and applied as a whole, and as such, no policies should be read in isolation. The application has been considered in this context.

Overall, and for the reasons noted above, it is considered that the proposal accords with the provisions of NPF4.

(ii) South Ayrshire Local Development Plan 2

The following policies of the South Ayrshire Local Development Plan 2 are relevant in the assessment of the application and can be viewed in full online at [Local development plan 2 - South Ayrshire Council \(south-ayrshire.gov.uk\)](https://www.south-ayrshire.gov.uk):

LDP Policy Strategic Policy 1: Sustainable Development  
LDP Policy Strategic Policy 2: Development Management  
LDP Policy: General Retail  
LDP Policy: Town Centres (guiding land use)  
LDP Policy: Town Centre; and  
LDP Policy: Ayr town centre guidance  
LDP Policy: Leisure Development  
LDP Policy: Historic Environment.  
LDP Policy: Land use and transport

The provisions of the Adopted South Ayrshire Local Development Plan 2 must, however, be read and applied as a whole, and as such, no single policy should be read in isolation. The application has been considered in this context.

The above policies direct development proposals to the main towns (i.e. Ayr, Prestwick, Troon, Maybole and Girvan), and in particular proposals for commercial, industrial or community facilities. In particular, the policies seek to promote and enhance the vitality and viability of town centres, and the use of vacant, redundant or brownfield sites. The application site benefits from a prominent location within Ayr town centre, and the proposals involve bringing a vacant premises back into use.

Under the Town Centre First Principle, new public and private sector development proposals are, in the first instance, directed towards town centres. The Network of Centres policy identifies that the main towns of Ayr, Troon, Prestwick, Maybole and Girvan will be supported as locations for retail, office and commercial leisure development that help to sustain those centres as vibrant centres for their local communities.

The Town Centre policy identifies the site as being within the Ayr town centre, and the policy seeks to ensure that town centres remain a strong shopping centre. Amusement arcade formats including adult gaming centres has been identified as a Sui Generis (uses which do not fall within the specified use class) in the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended. Although, classified as a 'Sui Generis' use, it can reasonably constitute a commercial leisure facility as described in Local Development Plan 2 - "Leisure and recreation facilities provided by the private sector as a business enterprise." To make sure town centres continue to be lively and viable, there is scope for different uses including such leisure facilities, offices, cafes, restaurants and tourist accommodation. From a wider perspective, National Planning Framework 4 indicates that 'Development proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses, will be supported'. The aim is to recognise and prioritise the importance of town centres and encourage a mix of developments which support their vibrancy, vitality and viability. This aim should also be considered in decisions concerning proposals to expand or change the use of existing development. Therefore, the proposal must be considered in the broader context, and as such is compliant with LDP Policy: Town centre (guiding land use) where commercial leisure development is acceptable, and of the overarching intent in the strategic policies to prioritise the regeneration of town centres.

Furthermore, this holistic approach needs to be taken to enhance and improve the vitality and viability of a centre. This assertion is echoed in the LDP Policy: Ayr town centre guidance. Central Retail and Leisure Core where applications will be assessed against the policies in the LDP to determine where they add to the vitality of the retail core. The proposals are also considered to offer the potential for not only linked trips to multiple commercial premises, but also sustainable trips by means of other modes of transport such as walking, cycling, or bus trips. Therefore, the proposals are considered to accord with the LDP policy in relation to sustainable development. Given the above policy context the development proposal is considered to accord with the afore-mentioned provisions of the local development plan.

The applicant proposes to operate the gaming centre on a 24-hour basis. Although it is acknowledged that such an operation may bring customer activity to the premises during the late-evening and early-morning periods it is considered that any such footfall is likely to be of a relatively low amount and frequency during those hours. As such, combined with small scale nature of the operation and the Council's Environmental Health Service response of 'no objection' subject to conditions, it is not considered necessary to attach a condition restricting the opening hours, this has been discussed further below.

An 'active' shopfront is one which is designed to extend the influence and animation of interior uses outwards into the surrounding street by visual contact between inside and out. The existing shopfront (disregarding that it is currently obscured by a marketing advertisement) achieves this due to its largely glazed frontage. This application proposes minimal alterations to the shopfront. The proposed external details involve the shop front stall-risers to be porcelain tiles and the entrance lobby floor to be retiled. The shopfront frames and entrance doors along with pilasters to be re-sprayed, these alterations indicates that an active shop frontage would be retained.

The Historic Environment Policy states that new development should preserve and enhance the character and appearance of South Ayrshire's conservation areas and their settings. This should include the appropriate layout, design, materials, scale and siting of development affecting buildings and structures located within a Conservation Area. Notwithstanding this, bringing this unit back into active use which may otherwise lie vacant is considered a positive factor in the planning balance. Ayr High Street is characterised by a broad range of uses including retail, restaurants, convenience stores, public buildings, sui genres uses and professional services. The introduction of an adult gaming centre would be commensurate with the pattern of development. Overall, it is considered that re-use of a vacant property which is located within a prominent location on Ayr High Street will not have a negative impact on the conservation area.

Given the above policy context, the development proposals, as conditioned, is considered to be in accordance with the aforementioned policy provisions of the local development plan.

The provisions of the Adopted South Ayrshire Local Development Plan 2 must, however, be read and applied as a whole, and as such, no single policy should be read in isolation. The application has been considered in this context.

(iii) Other Policy Considerations (including Government Guidance)

In terms of managing change within conservation areas, Planning Advice Note 71 (PAN71) - Conservation Area Management - indicates that physical change in conservation areas does not necessarily need to replicate its surroundings. The challenge is to ensure that all new development respects, enhances and has a positive impact on the area. Physical and land use change in conservation areas should always be founded on a detailed understanding of the historic and urban design context. Whilst the scope for new development may be limited in many conservation areas, all will present some opportunities for enhancement.

The provisions of PAN71 are largely emphasised by policies HEP2 and HEP4 of the adopted Historic Environment Policy for Scotland. Policy HEP2 states that decisions affecting the historic environment should ensure that its understanding and enjoyment as well as its benefits are secured for present and future generations, whilst Policy HEP4 states that changes to specific assets and their context should be managed in a way that protects the historic environment. The provisions of the Historic Environment Policy for Scotland are supplemented by Historic Environment Scotland's Managing Change in the Historic Environment series. With regard to this application, the Managing Change documents on Setting is particularly relevant.

The Managing Change document on Setting requires planning authorities to take into account the setting of historic assets in the determination of applications for planning permission. Where development is proposed it is important to identify the historic assets that might be affected, define the setting of each historic asset, and assess the impact of any new development on this. The Council will allow flexibility and encourage businesses to promote themselves in an effective manner but will be mindful of the effect this may have on the building concerned and the area as a whole.

South Ayrshire Council's Guidance on the Historic Environment refers specifically to development proposals within or affecting the setting of conservation areas, and states that all new development within, or affecting the setting of, a conservation area shall be required to preserve or enhance its character or appearance.

The application site is situated within Ayr Central Conservation Area. The external alterations are minimal and are not considered to cause harm or adversely impact on the setting, character or appearance of the conservation area at this locale. The proposals will bring an otherwise vacant property into active use. The proposals are considered to be in accordance with the guidance set out above.



(iv) Objector Concerns

It is noted that those objecting to the development proposal are nearby neighbouring residents and the local Community Council. Their concerns are summarised in *italics*. Responses to the representations are offered directly below in **bold**.

*Concentration of use*

**The proposal must be considered based on the local context in evidence at time of application. The application site is a long-term vacant unit, the neighbouring unit has also been vacant for an excess of 3 years. It is noted that the neighbouring unit at 242 High Street operated as an adult gaming centre, however it has not been operational since 2017, furthermore, it would not be appropriate for the purposes of this assessment to presume upon the probability, timing or nature of a future land use of 242 High Street. Having regard to the above and noting only one operational adult gaming centre presently exists elsewhere in the centre at reasonable separation between the application site and the existing adult gaming centre on the High Street, it is considered there is no undesirable concentration of this use either in quantity or proximity terms either presently or in consequence of this proposal's implementation.**

*Protecting the retail core centre*

**Amusement arcade formats including adult gaming centres can represent a commercial leisure use. The development plan expects such uses to be directed to town centres first, via Local Development Plan (LDP) policy: general retail sequential approach, LDP policy: town centre (guiding land use) and LDP policy: Ayr town centre guidance, in conjunction with NPF4 Policy 27(b)(i). The proposal must be considered in the broader context of both of the town centre first principle being applicable to commercial leisure development, and of the overarching intent in strategic development to prioritise the regeneration of town centres. Furthermore, a holistic approach needs to be taken as this type of development will complement the role and offering of the retail core while bringing a vacant unit back into use.**

*Impact on Residential Amenity/ 24/7 Trading use*

**As noted above the application site is within Ayr town centre where a degree of noise and activity can be expected in the evening and early hours. It is acknowledged that such an operation may bring customer activity to the premises during the late-evening and early-morning periods however, it is considered that any such footfall is likely to be of a relatively low amount and frequency during those hours. The applicant states that, based on their experience of other premises they operate, that the customer base after midnight is predominantly the local entertainment workforce and shift workers. The Councils Environmental Health Service were consulted regarding the development proposals under consideration. In their response, they offered no objections to the development subject to the attachment of appropriate conditions relating to noise management to any planning permission granted. However, should any statutory noise arise once the unit is operational, it is for the Councils Environmental Health Service to address such matters under their statutory powers.**

*Increased levels of gambling addiction and the resultant negative impact on deprivation in the area, negative impact on health, well-being and amenity of the community.*

**National Planning Framework 4 Policy 27(d) makes policy allowance to resist 'further provision' of non-retail uses if their services 'will undermine the character and amenity of the area or the health and wellbeing of communities, particularly in disadvantaged areas'. This policy explicitly targets specific uses i) hot food takeaways, ii) betting offices and iii) high interest money lending premises. However, it is understood that adult gaming centres are not cited directly within the policy, and it is further understood that the policy's intention is more about land use compatibility e.g. in close proximity of schools. As noted above, it is not considered that there is an over proliferation of such uses in the town centre and there is an absence of obvious or sufficient evidence to indicate in this case that one newly implemented adult gaming centre unit would have wider health and wellbeing implications.**

*Concealed frontages overlaid with vinyl.*

**The proposed changes to the shop front are not significant and do not give rise to any concerns with respect to design and the conservation area setting as captured elsewhere in this report. A separate application for advertisement consent has been submitted and will be considered separately.**

(v) Impact on the Locality

**Change of use**

The premises is located within Ayr Town Centre and within an area designated in the Local Development Plan as the 'Core Shopping Area' of Ayr. The Local Development Plan strives for the Core Shopping Area to contribute to a strong shopping centre with the ground floor units to be made up of shops. Furthermore, to make sure town centres continue to be lively and viable, the Local Development Plan identifies that there is scope for different uses. These uses include, but are not limited to, offices, café and restaurants, tourist accommodation and leisure facilities. While it is understood the importance of providing retail and class 1a uses (as defined in the Town and Country Use classes (Scotland) order 1997 as amended) within a core shopping area, a balanced approach needs to be utilised when looking at the vitality and viability of the town centre. NPF4 also makes reference to the importance of putting town centres first. Development proposals that enhance and improve the vitality and viability of town and local centres will be supported.

An application of this amusement arcade format which includes adult gaming centres represents a type of commercial leisure use and the development plan expects such uses to be directed to town centres first, via LDP policy: general retail (sequential approach) and LDP policy: leisure development, in conjunction with NPF4 Policy 27(b)(i). On balance, it is considered that re-use of a long-standing vacant property which is located within a prominent location on Ayr High Street will have a positive contribution to the high street noting this will increase footfall and which may in turn encourage linked trips in favour of trading for other town centre uses. Therefore, the principle of this use is in accordance with the development plan.

To ensure applications for change of use do not negatively affect the streetscape and the conservation area it is noted that the LDP policy; town centre (guiding land use) (c) requires proposals to 'keep a full and attractive window display or appropriate front'. The proposal is for minimal works are proposed to the facade on the principal elevation (High Street) and the window display is as existing, and as such it is considered this criterion (c) is complied with.

**Amenity:**

The application site is within Ayr town centre where a degree of noise and activity can be expected in the evening and early hours, and it is acknowledged that such an operation may bring customer activity to the premises during the late-evening and early-morning periods. However, consideration and weight are given to the applicant's Noise Impact Assessment which demonstrates that the proposed use would not harm the amenity of any neighbouring uses, including the flats which are situated above the premises, subject to the implementation of appropriate mitigation measures.

The Councils Environmental Health Service were consulted regarding the development proposals under consideration and in their response, they offered no objections to the development subject to the attachment of appropriate conditions which relate to the noise mitigation measures as proposed and set out in Section 3 of this report being installed, to any planning permission granted. The adult gaming centre would not have a kitchen and currently does not have an alcohol license. Therefore, generic issues affecting amenity such as odour and litter are not considered to be an issue in this instance. However, should any statutory noise arise, or any other matter related to air quality, lighting or health and safety issues once the unit is operational, it is for the Councils Environmental Health Service to address such matters under their statutory powers. Therefore, given the existing town centre character and amenity of the surrounding area, combined with the nature of the intended use and the accepted Noise Impact Assessment information and mitigation, it is considered that the adult gaming centre would not have any undue impact on the amenity of the flats which occupy the upper floors of the building, nor on any other neighbouring properties.

It is recognised that residential properties within, or immediately adjacent to town centres may, by virtue of their location, have a reduced level of residential amenity than a property which is located in an exclusively residential area. Notwithstanding, careful consideration has been given to the 24-hour operation of the proposals. Although it is acknowledged that such an operation may bring customer activity to the premises during the late-evening and early-morning periods it is considered that any such footfall is likely to be of a relatively low amount and considering the noise mitigation measures proposed to be installed and the position of the Councils Environmental Health Service, it is considered to be acceptable.

It should be noted for information, that it is understood that South Ayrshire Council Licensing Service granted a license for the application premises their Licensing Board on 8<sup>th</sup> February 2024.

**Accessibility and parking:**

The application site is located on Ayr High Street which is classified as Central retail and leisure Core, in close proximity to multiple public transport routes and public parking. As such, the proposed use would be accessible via a range of different transport modes, including sustainable and active travel, and the proposed development is thus compliant with LDP Policy: land use and transport. The Ayrshire Roads Alliance has no objection to the proposal.

**8. Conclusion:**

The proposed change of use represents an investment in the town centre that would bring a vacant unit back into use and would provide an evening-time economy offering and footfall which is supported by South Ayrshire Local Development Plan. The proposed change of use is compliant with LDP Policy: Town Centres (guiding land use) LDP Policy: Town Centre; which supports a range of uses that contribute towards the vitality and viability of the city centre.

The applicant's Noise Impact Assessment demonstrates that mitigation can protect neighbouring properties from any noise and activity associated with the use. As such, such subject to conditions, the proposed use would not have a detrimental impact on amenity.

The proposed external alterations are minimal and would not have an adverse impact on the street frontage or conservation area setting or character or appearance. The proposals are therefore in accordance with the historic environment policies of NPF4 and LDP2.

Therefore, the assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concern that cannot be addressed by condition. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. A condition can be imposed requiring the mitigation measures to be completed (as contained within the submitted noise report), and a verification report is required to be prepared by a competent person to the satisfaction of the planning authority and submitted to the planning authority in order to demonstrate compliance with the specific noise criteria which formed part of the planning conditions. Overall, there are no policy objections and following the above assessment, it is considered that the proposals, as conditioned, will not have a significant adverse impact on the locality.

Given the above assessment of the proposal and having balanced the applicant's rights against the general interest, it is recommended that the application be approved subject to conditions.

**9. Recommendation:**

It is recommended that the application is approved, subject to condition(s).

- (1) That the development hereby permitted must be begun within three years of the date of this permission.
- (2) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning.
- (3) The noise mitigation measures as set out in the Noise Report by ARCHO Consulting dated 14/12/23 shall be implemented in full prior to the occupation of the unit as an adult gaming centre. Once the mitigation measures works are complete, a verification report shall be prepared and submitted by a competent person to the satisfaction of the planning authority, in consultation with the Council's Environmental Health Service, in order to demonstrate that the mitigation has been installed in accordance with the details in the noise report and compliance with the specific noise criteria. Thereafter, the noise mitigation measures shall be maintained for the duration of the use of the premises as an adult gaming centre.
- (4) That there shall be no form of tannoy or amplified sound systems in the premises.

**9.1 Reasons:**

- (1) To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019.
- (2) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3) In order to minimise noise emissions from the use and to safeguard the amenity of neighbouring residential uses.
- (4) To avoid unacceptable noise disturbance in the interests of residential amenity.

**9.2 Advisory Notes:**

N/A

**9.3 List of Determined Plans:**

Drawing - Reference No (or Description): Existing Ground Floor Plan

Drawing - Reference No (or Description): Existing Shopfront Plan

Drawing - Reference No (or Description): Location Plan

Drawing - Reference No (or Description): Proposed Shopfront Plan

Drawing - Reference No (or Description): Proposed Ground Floor Plan

**9.4 Reason for Decision (where approved):**

The use of the premises hereby approved is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings subject to the conditions imposed being adhered to.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

**Background Papers:**

1. Application form, plans and submitted documentation.
2. Representations.
3. Consultation Responses.
4. Adopted South Ayrshire Local Development Plan (LDP2).
5. National Planning Framework 4 (NPF4).
6. South Ayrshire Council Regulatory Licensing Board decision 8th February 2024

**Equalities Impact Assessment:**

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

**Person to Contact:**

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