

DELEGATED DECISION

- Please select each of the categories that enables this application to be determined under delegated powers
 - Criteria 1 to 5 or criteria 7 to 9 must be addressed for all categories of application, except for applications for Certificates of Lawfulness, etc.

APPROVAL RECOMMENDED: GENERAL

Select an Option

1.	No valid planning application objection in the form of a petition of 20 or more signatures, has been received	☐
2.	Application complies with all relevant planning policies and is acceptable on planning grounds	☐
3.	There is no Committee resolution for the enforcement action	☐
4.	There is no effect on listed buildings or their settings	☐
5.	The site is not in the Green Belt (but see 11 below)	☐

REFUSAL RECOMMENDED: GENERAL

6.	Application is contrary to relevant planning policies/standards	☐
7.	No petition of 20 or more signatures has been received	☐
8.	Application has not been supported independently by a person/s	☐
9.	The site is not in Green Belt (but see 11 below)	☐

RESIDENTIAL DEVELOPMENT

10.	Single dwelling or less than 10 dwelling units and/or a site of less than 0.5 ha	☐
11.	Householder application in the Green Belt	☐

COMMERCIAL, INDUSTRIAL AND RETAIL DEVELOPMENT

12.	Change of use of retail units on site less than 1 ha or with less than 1000 sq. m other than a change involving a loss of A1 uses	☐
13.	Refusal of change of use from retail class A1 to any other use	☐
14.	Change of use of industrial units on site less than 1 ha or with less than 1000sq.m. of floor space other than to a retail use.	☐

CERTIFICATE OF LAWFULNESS

15.	Certificate of Lawfulness (for proposed use or Development)	☐
16.	Certificate of Lawfulness (for existing use or Development)	☐
17.	Certificate of Appropriate Alternative Development	☐

CERTIFICATE OF LAWFULNESS

18.	ADVERTISEMENT CONSENT (excluding Hoardings)	☐
19.	PRIOR APPROVAL APPLICATION	☐
20.	OUT-OF-BOROUGH OBSERVATIONS	☐
21.	CIRCULAR 18/84 APPLICATION	☐
22.	CORPSEWOOD COVENANT APPLICATION	☐
23.	APPROVAL OF DETAILS	☐
24.	ANCILLARY PLANNING AGREEMENT (S.106 or S.278) where the Heads of Terms have already received Committee approval	☐
25.	WORKS TO TREES	☐
26.	OTHER (please specify)	☐

The delegation powers schedule has been changed. Interim Director of Planning, Regeneration & Public Realm can determine this application

Case Officer:

Signature:

Date:

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informative's are satisfactory.

Team Manager:

Signature:

Date:

The decision notice for this application can be issued.

Director / Member of Senior Management Team:

Signature:

Date:

NONE OF THE ABOVE DETAILS SHOULD BE USED IN THE PS2 RETURNS ODPM

Item No. **Report of the Head of Development Management and Building Control**

Address: 14-16 STATION ROAD HAYES

Development: Partial change of use from Use Class E to adult gaming centre (Sui Generis) and shopfront alterations including the insertion of an additional front door.

LBH Ref Nos: 28554/APP/2023/3714

Drawing Nos: P01 Rev A
 P02
 P03

Date Plans received: 27-12-23 **Date(s) of Amendments(s):**

Date Application valid 27-12-23

1. SUMMARY

The application seeks planning permission for the change of use from use class E to Adult Gaming Centre (Sui Generis). Given the concentration of uses within the secondary shopping frontage to include restaurants and hot food takeaways, drinking establishments, betting shops, casinos, amusement centres, minicab offices and other similar uses, is above the policy threshold, the proposed change of use is likely to have a detrimental effect on local amenity. As such the proposed change of use is considered unacceptable in principle.

2. RECOMMENDATION

REFUSAL for the following reasons:

1. NON2 Non Standard reason for refusal

The proposed development by virtue of the use class and operation proposed, would result in an overconcentration of restricted uses within a designated Town Centre and Primary Shopping Area. As such the proposed development would result in detrimental harm to the vitality of both the Town Centre and Primary Shopping Area thus would fail to comply with Policies DMTC 2, DMTC 3 and DMTC 4 of the Hillingdon Local Plan - Part Two (2020), SD6 of the London Plan (2021).

2. NON2 Non Standard reason for refusal

The proposed development by virtue of the excessive hours of operation proposed, would result in an unacceptable increase in noise and disturbance within an area where there is also a high concentration of residential properties, particularly in the early hours of the morning when the High Street will be at it's quietest, to the detriment of the amenity of adjoining residents, contrary to Policy DMTC 4 and DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020).

INFORMATIVES

1. I52 Compulsory Informative (1)

The decision to REFUSE planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

2. I59 Councils Local Plan : Part 1 - Strategic Policies

On this decision notice policies from the Councils Local Plan: Part 1 - Strategic Policies appear first, then relevant Local Plan Part 2 (2020), then London Plan Policies (2016). Hillingdon's Full Council adopted the Hillingdon Local Plan: Part 1 - Strategic Policies on 8 November 2012 and the Hillingdon Local Plan Part 2 on 16 January 2020.

3. I71 LBH worked applicant in a positive & proactive (Refusing)

In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies from the Local Plan Part 1, Local Plan Part 2, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service.

We have however been unable to seek solutions to problems arising from the application as the principal of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

I53 Compulsory Informative (2)

The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Local Plan Part 1 (2012) and Part 2 (2020) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including The London Plan - The Spatial Development Strategy for London consolidated with alterations since 2011 (2016) and national guidance.

DMHB 11 Design of New Development

DMTC 2 Primary and Secondary Shopping Areas

DMTC 4 Amenity and Town Centre Uses

3. CONSIDERATIONS

3.1 Site and Locality

The property is a vacant unit withing Hayes Town Centre. The property's most recent previous use

was as a Santander Bank (Use Class E).

The unit is located within the primary shopping area of Hayes Town centre and forms part of a parade of shops. It is noted that down the street exists an adult gaming centre named Admiral Casino at no. 32 Station Road.

3.2 Proposed Scheme

The application seeks planning permission for the change of use from use class E to Adult Gaming Centre (Sui Generis) and shopfront alterations including the insertion of an additional front door. It is proposed to separate the existing unit into two individual units, thereby retaining the existing E Class on site and allowing access to the newly formed Adult Gaming Centre.

3.3 Relevant Planning History

28554/ADV/2005/55 14-16 STATION ROAD HAYES

INSTALLATION OF EXTERNALLY ILLUMINATED FASCIA AND PROJECTING SIGNS.

Decision: 23-06-2005 Approval

28554/ADV/2004/3 14-16 STATION ROAD HAYES

INSTALLATION OF INTERNALLY ILLUMINATED ONE FASCIA , ONE PROJECTING AND ONE VERTICAL FORMAT WINDOW SIGNS

Decision: 11-03-2004 Approval

28554/L/96/0878 16 STATION ROAD HAYES

Installation of a 0.8 metre diameter satellite dish (retrospective application)

Decision: 10-07-1996 Approve Limited
Time

28554/H/90/1955 16 STATION ROAD HAYES

Erection of a single storey rear extension and installation of a new shopfront

Decision: 22-02-1991 Approval

28554/J/90/3618 16 STATION ROAD HAYES

Installation of fascia sign and projecting sign

Decision: 22-02-1991 Approval

28554/E/86/1174 14-16 STATION ROAD HAYES

Alterations to elevation (P)

Decision: 09-07-1986 Approval

28554/F/86/3076 14-16 STATION ROAD HAYES

Advertisement (P)

Decision: 23-09-1986	Approval
28554/D/86/3013	14-16 STATION ROAD HAYES
Advertisement (P)	
Decision: 05-03-1986	Approval
28554/B/82/9035	14-16 STATION ROAD HAYES
Advertisement (P)	
Decision: 22-07-1982	Withdrawn (P)
28554/C/82/0553	14-16 STATION ROAD HAYES
Alterations to elevation (P)	
Decision: 23-07-1982	Approval
28554/80/0755	14-16 STATION ROAD HAYES
Mixed dev. on 0.0033 hectares (full)(P)	
Decision: 01-04-1981	Approval

Comment on Planning History

The relevant planning history is listed above.

4. Advertisement and Site Notice

- 4.1 Advertisement Expiry Date: Not applicable
- 4.2 Site Notice Expiry Date: Not applicable

5. Comments on Public Consult

32 neighbouring properties and 3 local Councillors were consulted by letter dated 10.01.24. Two letters of objection were received and is summarised below:

- Double fronted casino already exists 25m down the street
- Not needed
- Vendors offering a valuable social benefit should be considered instead
- Against Policy DMTC4 and DMTC2.

Officers comments: Discussed in the following report.

Access Officer -

This proposal for a new shop front and partial change of use has been reviewed against the requirements of London Plan policy D5, which seeks to secure the highest standards of accessibility and inclusive design. The existing shop front features level access from the public

footway via an inset double doorway which appears to be in excess of 1500mm wide. The proposed shopfront alteration shows the insertion of a single lever door, which should achieve the same level access from the footway. It is noted that some internal alterations are proposed. If toilets are to be made available for members of the public, the opportunity must be taken to incorporate a toilet accessible to wheelchair users in accordance with the guidance given in Approved Document M to the Building Regulations 2010 (2015 edition). The following condition and informative should be attached to any approval: The shopfront hereby approved shall ensure that step-free access for wheelchair users is maintained from the public footway, via a profiled threshold or water bar not exceeding 15 mm in height and a doorway width of no less than 1000 mm, with all such features remaining in place for the life of the building. REASON: To ensure an Accessible and Inclusive development for everyone in accordance with London Plan policy D5. Informative: The Equality Act 2010 seeks to protect people accessing goods, facilities and services from discrimination on the basis of a 'protected characteristic', which includes those with a disability. As part of the Act, service providers are obliged to improve access to and within the structure of their building, particularly in situations where reasonable adjustment can be incorporated with relative ease. The Act states that service providers should think ahead to take steps to address barriers that impede disabled people. Conclusion: acceptable

6. Local Plan Designation and London Plan

The following Local Plan Policies are considered relevant to the application:-

Part 1 Policies:

PT1.BE1 (2012) Built Environment

Part 2 Policies:

DMHB 11	Design of New Development
DMTC 2	Primary and Secondary Shopping Areas
DMTC 4	Amenity and Town Centre Uses

In addition:

7. MAIN PLANNING ISSUES

7.1 Impact on the amenities of the occupiers of neighbouring residential properties

Policy DMTC4 seeks to ensure that evening entertainment uses do not result in disturbance to residents and are responsibly operated.

The application property is located within Hayes Town Centre where a number of 24 hour uses are currently operating. There are however residential flats located directly above the former retail unit. The planning statement confirms that information on the nature of the proposed use and noise matters and detailed noise mitigation matters such as upgrading the floor between the residential

units above.

The applicant has submitted a noise assessment with the application which demonstrates that an assessment of noise breakout was undertaken using source noise measurements previously obtained from a AGC at Wood Green, London over a three day period.

The applicants noise assessment concluded the following:

"Predicted levels of direct noise transfer via the party floor separating the ground floor AGC from the first floor residential dwelling would be expected to be well within the set criteria, ensuring the amenity of the occupants of the first floor flat would not be compromised due to direct noise transfer. Noise breakout from the front facade of the AGC, up to first floor level, and in through a partially open residential window would be expected to be well within the set criteria, ensuring the amenity of the occupants of the first-floor flat would not be compromised due to noise breakout.

Customers smoking outside would typically only remain in a group smoking for around 1 minute and are rarely conversing (as they typically would not know one another). It is noted that the potential for speech occurring outside of the building is already present with respect to pedestrians passing by the site. With regards to customers arriving and/or leaving the site, it takes 12 seconds (at an average walking pace) to reach a position 20 metres from the establishment, and therefore the duration of potential impact is objectively considered to be very low.

The works include the repair of defects and installation of sound insulation measures. It is considered that in the event of an approvable scheme, and subject to appropriate conditions, the proposal could comply with the requirements of Policy DMTC4 of the Hillingdon Local Plan - Part Two (2020) in terms of residential amenity."

Officers Response:

The opening hours proposed will be 24 hours and is therefore expected to cause additional disturbance to those living in flats above the unit and in close proximity due to 24 hour businesses being rare in this part of Hayes. The majority of commercial uses in this part of Hayes town close at 6pm or early evening and are mostly Class E, the introduction of a 24 hour AGC results in the applicant becoming an agent of change. It was not deemed appropriate to request the applicant alter the opening hours as the character of an adult gaming centre, essentially a casino to some degree, is associated highly with night time use. The applicants noise assessment also heavily referenced 24 hour usage and it was to an extent that for this reason a noise assessment was undertaken. The application has been determined based on the information which has been submitted, that being the proposal for 24/7 365 hours of operation which is supported by a noise assessment.

The surrounding uses are largely Class E. That being the case they will follow traditional "retail" opening hours, with likely closing by 6 pm or early evening.

Residents who live above the commercial units in this area are used to a reduction in noise and disturbance after 6pm or early evening when most of the surrounding business close. After this time, background noise will be limited in this part of the centre; this is further enhanced due to no pubs or nightclubs close by. Officers conclude that customers of the proposal, will cause noise and disturbance to residents in the flats above and nearby therefore harming their amenity, especially at night time when just the AGC is open in the immediate vicinity. The proposal therefore fails to satisfy part (ii) of policy DMTC4 and is detrimental to neighbouring amenity and warrants refusal on such grounds.

7.2 Impact on Street Scene

Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) requires all new development to improve and maintain the quality of the built environment in order to create successful and sustainable neighbourhoods.

Policy DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) advises that all development will be required to be designed to the highest standards and incorporate principles of good design.

Policy DMHB 13 relates to shop fronts and states shopfronts should complement the original design, proportions, materials and detailing of the existing property and street scene.

Policy DMHB 4 states that new development, including alterations and extensions to existing buildings within a Conservation Area will be expected to preserve or enhance the character or appearance of the area. It should sustain and enhance its significance and make a positive contribution to local character and distinctiveness.

A new entrance door is proposed upon the front facade, it is considered to be acceptable and would not harm the character and appearance of the area. The shop front changes would be acceptable, any changes to signage would require separate advertisement consent.

7.3 Traffic Impact/Pedestrian Safety

The proposal involves the change of use of an existing commercial property within the Hayes Town Centre and an existing Primary Shopping Area. Although there would be a change of use, there is no increase in floor area which would result in an increase in traffic flow. Moreover it is likely that any trips to the site would be joint trips within the town centre and therefore already exist. As such no concerns regarding potential highway impacts are raised.

7.4 Carparking & Layout

Not relevant to the consideration of this application.

7.5 Urban Design, Access and Security Considerations

The Council's Access Officer has raised no accessibility concerns with regard to the proposal subject to the imposition of a condition requiring the provision of fully accessible toilet facilities.

7.6 Other Issues

Principle of Development

Hillingdon's Local Plan seeks to maintain and improve town centres through the management of uses to ensure they maintain a critical mass appropriate to their role. In particular, Policy DMTC2 seeks to ensure the primary function of primary and secondary town centre frontages as areas for retailing activity. With regards to the primary frontage, in which this property is located, the policy seeks to retain a minimum of 70% of the primary frontage in retail use.

As such, proposals seeking changes to non-retail use are subject to the criteria outlined in policy DMTC2. The policy confirms that changes in ground floor units to use as retail, financial and professional activities, restaurants, cafes pubs and bars will be permitted subject to certain criteria. This being:

- A) In primary shopping areas, the Council will support the ground floor use of premises for retail, financial and professional activities and restaurants, cafes, pubs and bars provided that:
- i) a minimum of 70% of the frontage is retained in Use Class A1;
 - ii) Use Class A5 hot food takeaways are limited to a maximum of 15% of the frontage;

iii) the proposed use will not result a separation of more than 12 metres between A1 retail uses; and
iv) the proposed use does not result in a concentration of non retail uses which could be considered to cause harm to the vitality and viability of the town centre.

The proposed use, being an adult gaming centre, is not listed as an approved use within the primary frontage and the proposal therefore fails to comply with policy DMTC 2. No other uses are listed as being acceptable in these locations. The applicant has assessed their proposal against the four criteria above, however officers view this as unnecessary due to the proposed not being within the permitted uses and no leeway is given to allow for uses outside of what is mentioned within primary frontages. Therefore, the proposed use, being an adult gaming centre, is classed as sui generis, and does not comply with policy DMTC 2 which contains no provisions for uses other than those which are listed.

Within the applicant's own submitted documents they have confirmed that only 59% of units within the designated primary shopping area are currently in A1 retail use. The target for A1 retail use (now use class E(a)) is 70% and it is seen that allowing the loss of a further unit to a non-retail use will not help this figure to increase and for the Council to meet its target. The number of units within use class E overall, cited by the applicant as justification for failing to meet this target, is not relevant to the assessment which should take account of only those uses falling within use class E(a).

An adult gaming centre would not provide local service and it is not clear what additional footfall it would create. It would however be the second only such use within the town centre although it is noted that there are also a number of betting shops where betting terminals may be available.

Policy DMTC 4: Amenity and Town Centre Uses

Proposals for restaurants and hot food takeaways, drinking establishments, betting shops, night clubs, casinos, amusement centres, minicab offices and other similar uses will only be supported provided that they:

- i) would not result in adverse cumulative impacts due to an unacceptable concentration of such uses in one area;
- ii) would not cause unacceptable disturbance or loss of amenity to nearby properties by reason of noise, odour, emissions, safety and security, refuse, parking or traffic congestion; and
- iii) would not detrimentally affect the character or function of an area by virtue of the proposed use or visual impact.

As mentioned previously there is one large adult gaming centre (Admiral Casino) trading less than 25m to the south of the application site. Betting offices surround the site, with 4 such uses being located within a few minutes' walk in all directions. The applicants own survey data for Hayes district centre, mentioned in the submitted planning statement, confirms that allowing a further such use will result in 17.8% of the units in both the primary and secondary shopping frontages being in gaming uses, a clear breach of the threshold provided in policy DMTC2. The proposal will clearly result in an unacceptable concentration of uses in one area and therefore fails to comply with criteria (i) of policy DMTC4.

In conclusion it is considered that the proposal is contrary to policies DMTC2 & DMTC4 and there are no material planning considerations which outweigh the harm that would be caused to the vitality and viability of the primary shopping frontage in conflict with policies DMTC2 and DMTC4 of the Hillingdon Local Plan - Part Two (2020).

8. Reference Documents

The Local Plan: Part 1 - Strategic Policies (2012)
The Local Plan: Part 2 - Development Management Policies (2020)
The Local Plan: Part 2 - Site Allocations and Designations (2020)
West London Waste Plan (2015)
The London Plan - Consolidated With Alterations (2016)
National Planning Policy Framework

Contact Officer:	Daniel Ambrose	Telephone No:	01895 250230
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