London
Magdalen House
148 Tooley Street
London
SE1 2TU
T: 020 7357 8000

Harrogate
Suite 19, 1 Cardale Park
Beckwith Head Road
Harrogate
HG3 1RY
T: 01423 502 115

Bristol
Origin Workspace
40 Berkeley Square
Bristol
BS8 1HP
T: 0117 214 1820

Newcastle
Alderman Fenwick's House
98-100 Pilgrim Street
Newcastle Upon Tyne
NE1 6SQ
T: 01423 502 115

Planning Department
South Holland District Council
Priory Road
Spalding
Lincolnshire
PE11 2XE

August 2025

Our Ref: 21/6082

Dear Sir/Madam

RE: Section 73 Application to remove Condition 3 (Opening Hours) restrictions and vary Condition 5 (Operational Management Plan) attached to Appeal A Ref: APP/A2525/W/21/3285049 at 32-33 Hall Place, Spalding, PE11 1SG

On behalf of Merkur Slots (UK) Ltd, please find enclosed an application pursuant to Section 73 of the Town & Country Planning Act 1990 (As Amended) seeking to remove condition 3 attached to appeal ref. APP/A2525/W/21/3285049 dated 12/07/2022, to remove restriction on opening hours to allow for 24-hour operation.

A Section 73 application allows a planning application to be made for the carrying out of development without compliance with one or more conditions attached to a previous planning permission, where there is a relevant condition that can be varied/removed.

Application Site and Surroundings

The application site relates to the ground floor and first floor at 32-33 Hall Place, Spalding, PE11 1SG and has been operating as an Adult Gaming Centre since 10th October 2022. The application site is situated on the north side of Hall Place and is surrounded by a number of national retailers and is located within the Primary Shopping Area (PSA) of Spalding town centre and forms part of the PSF. The Centre has mix of uses which contribute to the evening economy and two 24-hour gyms in operation within the centre.

There is a variety of travel options available nearby. There are 3 bus stops within 0.1 miles of the site which offer services from the early morning. Spalding Train Station is located 0.3 miles away, demonstrating the site is in a sustainable location. It should also be noted that there are multiple 24-hour car parks surrounding the site and the option for cycle parking along Hall Place

The site falls within Spalding Town Centre Conservation area but is not locally or nationally listed.

Managing Director
Stuart Slatter

Founder
Helen Cuthbert

Directors
Alastair Close | Katie Turvey | Elliot Jones | Heather Vickers | Paul Galgey | Sam Deegan | Niall Hanrahan | Dr Emma J. Wells

Associate Directors
Rob Scadding | Charlotte Perry

Associates
Charlotte Hunter | Grace Beeby | Charlotte Parry | Jamie Pert
Sam Elliott | Katia Clarke | Will Rogers

Consultants
Dan Templeton | Claire Temple

www.planningpotential.co.uk
info@planningpotential.co.uk
Planning Potential is a Limited Company registered in England No. 5419507 | Registered Office: 35 Ballards Lane, London N3 1XW

Proposal & Background

Appeal ref. APP/A2525/W/21/3285049 seeking the Change of use from former E use class to Adult Gaming Centre (Sui Generis) was approved on the 12.07.2022. As part of the decision condition 3 (opening hours) was attached restricting opening hours to 0700 - Midnight on Mondays to Saturdays and 10:00 - Midnight on Sundays. This application seeks to remove this condition.

Condition no. 3 of appeal ref. APP/A2525/W/21/3285049 states as follows:

- The premises shall only be open for customers between the following hours: 0700 - Midnight on Mondays to Saturdays and 10:00 - Midnight on Sundays.

The reason for the Inspector restricting opening hours was that the appeal site appeared to be located along a quiet street at night, that is unlikely to accommodate late night traffic and background noise levels would be expected to be low. As a result of this and in the opinion of the Inspector, there was insufficient evidence to demonstrate that the town has a late-night culture, it was concluded that a 24-hour use could harm the living conditions of existing residents. In direct response to the Inspectors comments/reasoning, Archo Consulting Ltd undertaken additional baseline noise surveys and a nighttime contextual assessment outside of the application site during late hours. Evidence confirms that that noise levels are relatively high in the area. The predominant ambient soundscape consisted of traffic on the local road network and pedestrians in passing.

As a result, additional evidence satisfies the Inspectors previous reasons for restricting opening hours and disturbance from 24hr opening is considered extremely unlikely to occur, particularly given operational noise generated will be imperceptible against the prevailing background level during the most noise sensitive part of the night.

Merkur Slots successfully trade 24-hours at a large number of their venues, including sites where there is residential in the vicinity. Their key customer base after midnight are shift workers looking to relax after evening and night-time shifts.

The removal of condition is therefore sought to allow the AGC to operate 24-hour daily on a permanent basis and continue to cater for customers who work outside the normal working hours, and whose opportunity for leisure activities occurs between the hours of 01:00-09:00, in particular.

The proposals will continue to contribute to the evening economy by providing jobs for local people, providing natural surveillance, and improving the vitality and viability of the Town Centre, whilst ensuring the amenity of residents is maintained.

Condition 5 attached to Appeal A ref: APP/A2525/W/21/3285049 states as follows:

- The approved use shall be operated in compliance with the operational and security measures specified within the ‘Operational Management Plan and Security Measures’ document, dated August 2021.

A revised operational management plan has been included within the submitted noise report to reflect 24-hour operation meaning the applicant seeks to vary Condition 5 to reflect the operational management plan within the submitted noise report (Appendix E within the Noise report).

Planning Justification

Opening Hours (Condition 3)

A noise report by Archo Consulting Ltd has been submitted to support our justification for the removal of Condition 3. It demonstrates that the measures and findings of the noise assessment, conditioned as an approved document on the original permission, are still effective and current.

The impact from all potential noise sources, i.e. internal noise, external customer noise from comings and goings and customers smoking have all been considered. Additional baseline noise level surveys and noise context of the area have been conducted. Based on this and the late-night assessment of other Merkur venues across the UK it can be concluded that sound from operational venues (including the application site) is almost never perceptible outside during the night-time, even when background noise levels are low.

Similarly, the number of customers reduces significantly during night-time hours. There will always be a member of staff at all times to ensure customers respect the surrounding amenities of residents. A benefit of later opening hours is that it provides natural surveillance through the night.

To further justify the removal of condition 3 and signify compliance with relevant policy, understanding how a Merkur Slots, adult gaming centre operates is essential. Merkur Slots typically operate 24-hours a day, 7 days a week and whilst longer hours of operation are sought, it is important to acknowledge that Merkur noise levels are generally very low and disturbance to surrounding properties are minimal. The nature of the use proposed would not result in adverse noise in night-time hours and the use is appropriate to the Town Centre context.

Despite common misconceptions, the submitted Merkur Slots brochure provides confirmation on Merkur Slots' offer, client-base and how, which do not give rise to problems, as follows:

- The machines offer low stakes ranging from 10p to a maximum of £2
- Electronic Bingo will be provided as part of the offer
- Complementary refreshments, teas and coffees are provided
- Merkur Slots venues are popular with both males and females
- Customers visit on their own or in couples – large groups are rare
- Unlike betting shops, no live sports events are shown
- The customer base after midnight is predominantly the local shift workers who like to relax after their busy shifts (hence requirement for flexible hours)
- The machines generate low levels of noise, only background music is played (similar to shops) and there are no tannoy systems
- Teams remain with customers on the venue floor rather than behind the counter
- A range of measures are in place to protect customers and the public, including a 'Think 25' policy, annual local area risk assessments, socially responsible gambling tools, and management and training initiatives
- Merkur Slots have never had a licence revoked or reviewed.

It has therefore been demonstrated that condition 3, in its current form no longer meets the necessary condition tests and that it is no longer necessary and would be unreasonable to insist the conditions remain unchanged. The proposals clearly comply with the National Planning Policy Framework and Policies 1, 24, 25, 26 and 29 of the Southeast Lincolnshire Local Plan (2019).

Licence

The applicant has recently had a license approved enabling 24-hour opening.

This process includes various security and safety measures. The process covers matters of crime, anti-social behaviour, and impact on vulnerable groups. In granting the 24-hour licence, the Police and licensing authority are satisfied that a Merkur Slots venue at the application site would not give rise to any significant problems and is suitable to operate 24hrs. It is not for the planning system to duplicate matters dealt with by other regimes, and where they do, there should be an integrated approach.

This license this is a material change in circumstance and should be considered a part of the application.

Operational Management Plan (Condition 5)

As stated, an operational management plan forms part of the submitted noise impact assessment and will effectively ensure potential noise incidents will be controlled. The submitted noise assessment highlights key criteria, and for completeness the key measures are as follows:

Preventative Anti-Social Behaviour Measures

- As with all our AGCs, we will not sell or serve alcohol on the premises. Only complementary refreshments, teas and coffees will be available.
- Individuals who are deemed to be under the influence of excessive alcohol will not be allowed to enter the premises.
- We will place a notice visible from the exterior of the premises stating that drinking of alcohol directly outside the premises is forbidden and that those who do so will be banned from the premises.
- The on-duty manager shall implement a policy of banning any customers who engage in any anti-social behaviour within or outside the premises.

Dispersal measures

- Staff will encourage customers leaving the premises to respect our neighbours and not generate noise when exiting the premises.
- Waiting outside the premises will be discouraged.
- Customers found to be loitering near the building will be politely encouraged by staff to move on.
- Staff, on request, will provide relevant information to customers who require a taxi or directions to the nearest station or bus stop.

Considering the above, my client seeks to vary Condition 5 to ensure the updated operational management plan is conditioned as part of any forthcoming decision and reflects 24hr operation.

Conclusion

The technical evidence to support the later night opening of 24hrs is based on the site assessments of internal/external noise and noise from patron behaviour in three different locations in the UK during night-time hours and robustly confirms that the removal of Condition 3 and variation of Condition 5 is appropriate and justified at the application site, and in line with local policy and approved hours in the town centre.

In summary, we request that the removal of restrictions on opening hours, as set out above, is granted. This is due to considerate operation of the premises by our client and the sustainable location of the application site, justified in the non-existence of noise complaint received since opening.

Application Package

In addition to this cover letter, the following documents are submitted in support of the application. The application fee has been paid via the Planning Portal:

- Application Form
- Planning Statement (within this Covering letter)
- Appeal Decision Notice for ref. APP/A2525/W/21/3285049
- Site Location Plan identifying the application site in red
- Noise Assessment (prepared by Archo Consulting) (ref: PR2001_219_FINAL_R1)
- Planning Brochure

We trust the above and enclosed is clear and provides sufficient information to validate and determine the application. However, please do not hesitate to contact our Harrogate office should you have any questions, or require any further information.

Yours sincerely,

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Harrogate Office

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