



Planning Committee Date	7 th February 2024
Report to	Cambridge City Council Planning Committee
Lead Officer	Joint Director of Planning and Economic Development
Reference	23/03317/S73
Site	50 Burleigh Street
Ward	Market
Proposal	S73 to vary conditions 2 (External Area) and 3 (Hours of operation) of planning permission 18/1491/S73 (Section 73 application to vary condition 4 of permission APP/Q0505/A/07/2052528 (Change of use from retail to Adult Amusement Centre) to extend the opening hours until 11pm Monday to Saturday and until 8pm on Sunday) to vary condition 3 to allow the premises to operate from 9am to 2am on Monday to Saturday and from 11am to 2am on Sunday and to vary condition 2 to restrict the use of the rear of the premises from 8pm to 2am Monday to Sunday, noting that this outdoor space is not in use past 8pm
Applicant	Luxury Leisure
Presenting Officer	Laurence Moore
Reason Reported to Committee	Called-in by Cllr Martinelli
Member Site Visit Date	N/A
Key Issues	<ol style="list-style-type: none">1. Amenity of Neighbouring Occupiers2. Anti-Social Behaviour/Crime3. Extended Hours of use and impact on Character
Recommendation	APPROVE subject to conditions.

1.0 Executive Summary

- 1.1 The application seeks to vary conditions 2 and 3 of planning permission 18/1491/S73, to allow for an extension to the opening hours of the adult gaming centre.
- 1.2 The proposed changes will allow the premises to remain open between 9am and 2am Monday to Saturday, and between 11am and 2am on Sunday, and would allow for the rear of the premises to be used throughout the proposed opening hours, with access to the rear restricted from 8pm each day.
- 1.3 The proposed alterations to opening times are considered appropriate for the character of the area, given the proximity of other late opening leisure/entertainment businesses, and so the development is compliant with the provisions of policies 12, 55, 56 and 58.
- 1.4 The proposed alterations are not considered to allow for any adverse impacts on the amenity of neighbouring occupiers. The council's EHO shares this view, and the development is seen as compliant with the provisions of policies 35, 56, and 58.
- 1.5 The Designing Out Crime Officer has provided their support for the development on behalf of the policies, stating there are no concerns that the development would cause an increase in crime or anti-social behaviour within the area. The development is therefore seen as compliant with policy 56.
- 1.6 Having taken into account the provisions of the development plan, NPPF and NPPG guidance, the views of statutory consultees and wider stakeholders, as well as all other material planning considerations, the proposed development is recommended for approval, subject to conditions.
- 1.7 Officers recommend that the Planning Committee approve this application, subject to the conditions outlined within this report.

2.0 Site Description and Context

Primary Shopping Area	x	Shopping Frontage	x
Area of Major Change	x	CPZ	x

*X indicates relevance

- 2.1 The application site comprises of an adult gaming centre situated on the south side of Burleigh Street with a flat on the upper-floor. The site is situated along a pedestrianised road that has a variety of retail and

restaurant uses and the surrounding context is predominantly commercial in nature with residential flats typically situated on the upper-floor.

2.2 To the south —west of the site is Paradise Street which includes several flats and other residential forms. To the north of the site is the Grafton Centre.

2.3 The site is situated within the Primary Shopping Area and is within the Grafton Centre Area of Major Change (Policy 23).

3.0 The Proposal

3.1 The application seeks S73 to vary conditions 2 (External Area) and 3 (Hours of operation) of planning permission 18/1491/S73 (Section 73 application to vary condition 4 of permission APP/Q0505/A/07/2052528 (Change of use from retail to Adult Amusement Centre) to extend the opening hours until 11pm Monday to Saturday and until 8pm on Sunday) to vary condition 3 to allow the premises to operate from 9am to 2am on Monday to Saturday and from 11am to 2am on Sunday and to vary condition 2 to restrict the use of the rear of the premises from 8pm to 2am Monday to Sunday, noting that this outdoor space is not in use past 8pm.

3.2 The changes are tabularised below for ease of reference:

Condition no.	18/1491/S73 (extant)	Proposal	Additional
External rear restricted hours Condition 2	8pm – 11pm Mon - Sun (no use between these hours)	8pm – 2am Mon- Sun (no use between these extended hours)	N/A
Inside allowed hours Condition 3	9am – 11pm Mon-Sat	9am – 2am Mon-Sat	+3hrs
	11am – 8pm Sun	11am – 2am Sun	+6hrs

3.3 This will allow the premises to remain open between 9am and 2am Monday to Saturday, and between 11am and 2am on Sundays.

3.4 This would allow for the continued use of the rear of the premises to be used throughout the proposed opening hours, with access to the rear restricted from 8pm each day.

3.5 The application has been amended to address concerns raised by the council's EHO and further consultations with consultees have been carried out as appropriate. It was not deemed necessary to consult neighbours on the changes, as the changes constituted technical alterations.

4.0 Relevant Site History

Reference	Description	Outcome
18/1491/S73	Section 73 application to vary condition 4 of permission	PERM

	APP/Q0505/A/07/2052528 (Change of use from retail to Adult Amusement Centre) to extend the opening hours until 11pm Monday to Saturday and until 8pm on Sunday.	
17/1564/S73	Retrospective application under Section 73 to remove condition 4 (Opening Hours) of planning permission 07/0517/FUL, decided by appeal APP/Q0505/A/07/2052528, to operate on a 24 hour basis.	REFUSED
09/0726/ADV	Installation of one externally illuminated fascia sign and one externally illuminated projecting sign.	PERM
07/00024/REFUSL (APP/Q0505/A/07/2052528)	Change of use from retail to Adult Amusement Centre.	ALLOWED
07/0517/FUL	Change of use from retail to Adult Amusement Centre.	REFUSED

5.0 Policy

5.1 National

National Planning Policy Framework 2023

National Planning Practice Guidance

National Design Guide 2021

Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Equalities Act 2010

Circular 11/95 (Conditions, Annex A)

5.2 Cambridge Local Plan 2018

Policy 12: Fitzroy/Burleigh Street/Grafton Area of Major Change

Policy 34: Light pollution control

Policy 35: Human health and quality of life

Policy 36: Air quality, odour and dust

Policy 55: Responding to context
Policy 56: Creating successful places
Policy 58: Altering and extending existing buildings

Policy 73: Community, sports and leisure facilities
Policy 79: Visitor attractions
Policy 80: Supporting sustainable access to development
Policy 81: Mitigating the transport impact of development

5.3 Neighbourhood Plan

N/A

5.4 Supplementary Planning Documents

Sustainable Design and Construction SPD – Adopted January 2020
Grafton Area Masterplan and Guidance SPD (2018)

5.5 Other Guidance

N/A

6.0 Consultations

6.1 County Highways Development Management – No Objection

6.2 No objection, no recommended conditions.

6.3 Environmental Health – No Objection

6.4 Initial Response: There is insufficient information and inadequate assessment of potential noise impacts to allow an informed decision to be reached on the suitability of this site for extended hours and it has not been demonstrated that significant or any other adverse noise impacts can be avoided or reduced and minimised to an acceptable level.

6.5 Following the initial comments from Environmental Health Officers, the applicant provided an updated Noise Impact Assessment.

6.6 Secondary Response: Considering internal noise levels and plant associated within the premises, as detailed and calculated within the HAR, we have no objections to the application.

6.7 Police Architectural Liaison Officer – No Objection

6.8 Thank you for the opportunity to comment on this planning application, I have viewed associated documents in relation to crime, disorder, vulnerability of crime and the fear of crime, I have spoken to the local policing team and Police licensing officer for this location.

6.9 There are no issues around this venue, and we are supportive of the application.

7.0 Third Party Representations

7.1 No representations have been received.

8.0 Member Representations

8.1 Cllr Martinelli has made a representation objecting to the application on the following grounds:

- Noise/Amenity Impacts
- Antisocial Behaviour
- Proposed opening hours are not consistent with surrounding premises.

8.2 The above representations are a summary of the comments that have been received. Full details of the representations are available on the Council's website.

9.0 Assessment

9.1 Planning Background

9.2 The site has been subject to several applications to vary the opening times of the Adult Amusement centre.

9.3 The most recent application, 18/1491/S73, allowed for the opening hours to be extended to 11pm Monday-Saturday, and until 8pm on Sunday.

9.4 Principle of Development

9.5 The application seeks to amend conditions applied to a previously consented permission, the principle of development has been established under application reference APP/Q0505/A/07/2052528, and this report outlines the assessment of the proposed changes only.

9.6 Character and Context

9.7 Policies 55, 56, and 58 seek to ensure that development responds appropriately to its context, is of a high quality, reflects or successfully contrasts with existing building forms and materials and includes appropriate landscaping and boundary treatment.

- 9.8 The application seeks S73 to vary conditions 2 relating to the use of the premises. These changes are set out in the table below:

Condition no.	18/1491/S73 (extant)	Proposal	Additional
External rear restricted hours Condition 2	8pm – 11pm Mon - Sun (no use between these hours)	8pm – 2am Mon- Sun (no use between these extended hours)	N/A
Inside hours Condition 3	9am – 11pm Mon-Sat	9am – 2am Mon-Sat	+3hrs
	11am – 8pm Sun	11am – 2am Sun	+6hrs

- 9.9 This will allow the premises to remain open between 9am and 2am Monday to Saturday, and between 11am and 2am on Sundays.
- 9.10 This would allow for the rear of the premises to be used throughout the proposed opening hours, with access to the rear restricted from 8pm to 2am each day.
- 9.11 Concerns have been raised by a member that the proposed extension to opening hours for the Adult Amusement Centre is not consistent with the prevailing character of the area. The comments received have highlighted that Burleigh Street is primarily used for daytime shopping and that the extended opening hours of the business would be out of keeping with the perceived character of Burleigh Street.
- 9.12 Whilst the application site is within the Primary Shopping area, and is identified as a Shopping Frontage, the existing use of the site as an Adult Amusement Centre is established, and the area is subject to several leisure/entertainment uses.
- 9.13 The application site is situated within the Fitzroy Street/Burleigh Street/Grafton Centre Area of Major Change, meaning policy 12 is triggered. Policy 12 states that the identified area of major change is supported as a location for expansion and/or redevelopment for retail and leisure use. The Grafton Centre SPD states at paragraph 2.3.6 that “town centres are also becoming increasingly important locations for leisure, hospitality and evening economy uses, shifting the mix of uses that are occurring within high streets’
- 9.14 Burleigh Street currently hosts both The Six Six Bar and WT’s Sports Bar.
- 9.15 The Six Six Bar is a bar and live music venue, remaining open until 1am Sunday-Wednesday, and until 2am Thursday-Saturday.
- 9.16 WT’s Sport Bar is a sports bar catering for Pool, Snooker, Poker and Adult Amusement Games, remaining open between the hours of 12pm-2am Monday-Saturday, and closing at 12am on Sunday.

- 9.17 The above sites, their use, and their opening hours, is evidence of leisure/entertainment based enterprises with late opening hours operating within the immediate context of Burleigh Street, and act as precedents in support of the proposed extension to business hours for the proposal site.
- 9.18 The proposed development, constituting an extension to opening hours of an adult amusement arcade, is therefore considered as in keeping with the character of Burleigh Street, and is considered as compliant with the provisions of policies 12, 55 and 56, and is therefore supported.

9.19 Highway Safety and Transport Impacts

- 9.20 Policy 80 supports developments where access via walking, cycling and public transport are prioritised and is accessible for all. Policy 81 states that developments will only be permitted where they do not have an unacceptable transport impact.
- 9.21 Para. 115 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.22 The proposed variations to the previous consent do not require any physical works on site, and will not lead to any changes on site with regards to access, parking or highway concerns. The development is therefore not considered to allow for any adverse impacts on highway safety. The Highways Officer shares this view, and recommends no conditions.
- 9.23 The proposal accords with the objectives of policy 80 and 81 of the Local Plan and is compliant with NPPF advice.

9.24 Amenity

- 9.25 Policy 35 seeks to protect amenity impacted by noise and disturbance. There are residential properties above and surrounding the site including to the rear.
- 9.26 Neighbouring Properties
- 9.27 Concerns have been raised by a member with regards to the potential adverse impacts on the amenity of neighbouring occupiers which may arise from the proposed extension to business hours.
- 9.28 The application seeks to extend the opening hours of the Adult Amusement Arcade on site. This would allow for the site to be operational

between the hours of 9am and 2am Monday to Saturday, and between 11am and 2am on Sunday.

- 9.29 The councils EHO was not initially satisfied with the information provided that neighbouring occupiers would not be subject to exacerbated issues with noise stemming from the proposed extension to operational hours.
- 9.30 Following this objection, the applicant has provided an updated noise impact assessment to address the concerns of the EHO and avoid any potentially adverse impacts on the amenity of neighbouring occupiers.
- 9.31 The EHO was formally consulted on the revised document, and has removed their objection, stating: *Considering internal noise levels and plant associated within the premises, as detailed and calculated within the HAR, we have no objections to the application.*
- 9.32 Additionally, the applicants set out in their supporting planning statement that:

‘Luxury Leisure has undertaken surveys of visitor numbers across a range of AGCs [Adult Gaming Centres] which operate 24 hours a day. This data was collected from 67 AGCs from the North-West, Midlands, London and the South-East and the East of England over a 2-week period in January 2022. These are included at Appendix 6. Generally, this demonstrates that on average there are less than 7 visitors per hour during the period between 8pm and 1am’.

and:

‘It is important to note that no alcohol is sold or allowed at any of Luxury Leisure’s AGCs. Anyone under the influence is refused entry. This is very clear in Luxury leisure’s licence and differs from other similar operations such as bingo halls/casinos etc.’

and further that:

‘Luxury Leisure AGCs generally appeal to a wide demographic of customers, and this is something that is regularly recorded and monitored by the company. Surveys of Admiral customers suggest that generally there is 35% male/65% female split with a high proportion of customers being between the ages of 45 and 55. Based on experience and anecdotal evidence many visitors between the hours of midnight and 2am are those working shifts or anti-social hours and those working within the hospitality industry. These often include chefs, waiters, bar workers, taxi and delivery drivers. The majority of these customers arrive alone and are not part of larger group.’

9.33 Given the support from Environmental Health Officers and the indicative low intensity and nature of use between these later times, there is no reason to believe that the proposed alterations to the business hours of the adult gaming centre would allow for adverse impacts on the amenity of neighbouring occupiers.

9.34 No objections have been received, and the proposal adequately respects the amenity of its neighbours and is considered that it is compliant with Cambridge Local Plan (2018) policy 35.

9.35 Other Matters

Crime/Anti-social Behaviour

9.36 Concerns have been raised by a local member with regards to the potential increase in anti-social behaviour and crime in the area, stemming from the proposed increase in opening hours.

9.37 Cambridgeshire Constabulary's *Designing out Crime Officer* has been formally on this application. They have viewed associated documents in relation to crime, disorder, vulnerability of crime and the fear of crime, and have discussed the application with the local policing team and Police licensing officer for this location.

9.38 They do not consider that there are any issues around this venue, or the proposed extension to opening hours, and are supportive of the application.

9.39 The proposed alterations to opening hours are therefore considered appropriate for the site and surrounding area, and it is not considered to allow for exacerbated levels of crime and/or anti-social behaviour, and is considered compliant with the provisions of policy 56.

9.40 Planning Balance

9.41 Planning decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38[6] of the Planning and Compulsory Purchase Act 2004).

9.42 The proposed changes will allow the premises to remain open between 9am and 2am Monday to Saturday, and between 11am and 2am on Sunday, and would allow for the rear of the premises to be used throughout the proposed opening hours, with access to the rear restricted from 8pm each day.

9.43 The proposed alterations to opening times are considered appropriate for the character of the area, given the proximity of other late opening

leisure/entertainment businesses, and so the development is compliant with the provisions of policies 12, 55, 56 and 58.

- 9.44 The proposed alterations are not considered to allow for any adverse impacts on the amenity of neighbouring occupiers. The council's EHO shares this view, and the development is seen as compliant with the provisions of policies 35, 56, and 58.
- 9.45 The Designing Out Crime Officer has provided their support for the development on behalf of the policies, stating there are no concerns that the development would cause an increase in crime or anti-social behaviour within the area. The development is therefore seen as compliant with policy 56.
- 9.46 Having taken into account the provisions of the development plan, NPPF and NPPG guidance, the views of statutory consultees and wider stakeholders, as well as all other material planning considerations, the proposed development is recommended for approval, subject to conditions.

10.0 Recommendation

10.1 Approve subject to:

-The planning conditions as set out below with minor amendments to the conditions as drafted delegated to officers.

11.0 Planning Conditions

1 - The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.

Reason: In the interests of good planning, for the avoidance of doubt and to facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

2 - The external area to the rear of the premises shall not be used by patrons of the premises between the hours of 8pm and 2am Monday to Sundays.

Reason: In the interests of residential amenity (Cambridge Local Plan 2018 policies 55, 57/58).

3 - The use hereby permitted shall only be operated from the premises during the hours of 9am to 2am Monday to Saturday and 11am to 2am on Sundays.

Reason: To protect the amenities of the occupiers of adjacent properties.
(Cambridge Local Plan policy 35)

4 - The use hereby permitted shall be restricted to the playing of amusements with prizes machines, ancillary catering and ancillary retail sales.

Reason - To ensure that the use makes a positive contribution to the vitality, viability and diversity of the City Centre, in accordance with Policy 11 of the Cambridge Local Plan 2018

5 - The ground floor front window of the premises shall at all times contain a retail window display

Reason - To ensure that the use makes a positive contribution to the vitality, viability and diversity of the City Centre, in accordance with Policy 11 of the Cambridge Local Plan 2018

Background Papers:

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

- Cambridge Local Plan 2018
- Cambridge Local Plan SPDs