

<u>APPLICATION NO:</u>	22/00523/COU	<u>CASE OFFICER:</u>	Lee Osborne
<u>WARD:</u>	Roby	<u>PARISH:</u>	
<u>LOCATION:</u>	1 Cavendish Walk, Derby Road, Huyton L36 9YG		
<u>PROPOSAL:</u>	CHANGE OF USE OF BETTING SHOP (USE SUI GENERIS) TO FORM AN ADULT GAMING CENTRE (SUI GENERIS)		

Site Description

The application relates to the use of a vacant shop, which forms part of a purpose-built commercial building in Huyton village centre and was formerly in use and operated by Ladbrokes bookmakers. The shop is dual fronted with the main frontage and entrance on Derby Road / Cavendish Walk with Cavendish Walk partly being an extension of Derby Road. The unit has another frontage on the side adjacent a footpath into Huyton village centre from the town centre car park and facing the side of a block of three purpose-built retail / business units. This frontage is visible when using the footpath and is also highly visible walking from Derby Road through to Cavendish Walk. The unit is in a prominent location, forming a key part of the retail frontage when walking to and from Cavendish Walk which itself is a key pedestrian route through to the Asda Superstore.

The village centre consists of approximately 117 commercial premises overall. Three bookmakers are currently present on the pedestrianised Derby Road, together with two pawnbrokers and an existing adult gaming centre. A fourth bookmakers Ladbrokes was operating when the previous application by the applicant (operating as Cashino) was considered for 35 Derby Road but has since ceased operations in Huyton village centre.

Proposal

The application proposes to change the use of the premises from 'Sui Generis' use as a bookmaker (previously Ladbrokes operated at the site but closed December 2021/January 2022) to an adult gaming centre. As with bookmakers, adult gaming centres do not fall into any specific national 'Use Class' and in this respect they are also classified as 'Sui Generis' uses.

The proposal relates to the ground floor of the unit only and the first floor is vacant. The proposed ground floor would be largely open plan but also incorporating toilet facilities and staff facilities. The ground floor would comprise mainly of gaming machines, although bingo would also be available through tablets linking to national games and this type of mix is common to the company's operations. The application requests that the use operates for unrestricted times and days.

Consultations

Planning Policy - Object on the following grounds:

- The proposal is contrary to Local Plan Core Strategy Policy CS6. The proposed development will not enhance the provision of comparison and

convenience shopping or add to the complementary mix of uses. The proposal would have a negative effect on the vitality and viability of Huyton Town Centre.

- The proposal is contrary to Replacement Unitary Development Plan Saved Policy S2. The proposal would not be compatible with the scale and role of the centre; and it would result in a grouping of uses which would have a negative impact on the character of the centre.
- The proposal is contrary to the Town Centre Uses SPD. The proposal would exceed the 5% threshold and result in an unacceptable grouping of uses that would have a negative impact on the character of the centre. The proposals would not provide an active shop frontage, which would be detrimental to the character and vitality of Huyton Town Centre.

Public Health - In September 2021 the Office for Health Improvement and Disparities released an evidence base on gambling-related harms. That review named Knowsley as the upper tier local authority with the highest gambling prevalence at 78.6%. The review also stated that in general areas of high deprivation have lower gambling prevalence, but higher proportional rates of harmful gambling. For Knowsley, as the second most deprived borough in England, this raises particular concerns – high rates of gambling prevalence and therefore higher than average rates of gambling harm.

There are several harms associated with gambling including financial, relationship, mental and physical health, employment, educational and cultural. Furthermore, gambling harms reach far beyond the gambler themselves to their family and friends, employment and wider community. Gambling increases health inequalities through association with alcohol, poor educational attainment, unemployment, poor psychological health and reduced income.

Based on this evidence there are real concerns about the application for an additional gambling outlet in Huyton town centre. Public Health strongly oppose any increase in the amount of gambling premises in Huyton town centre. An additional unit will increase the opportunity to gamble, further normalise the behaviour and therefore is highly likely to have a negative impact on health for many.

Representations

This application has been publicised by letters sent to 13 neighbours. It has also been advertised by Site Notice.

There have been objections from 2 persons. The representations are summarised as follows: -

- We are appalled to see that Merkur Slots are again attempting to open a new gambling venue in Huyton Town centre and dishonestly suggesting that they are moving the establishment from 35 Derby Road and therefore not increasing the number of gambling venues in Huyton Town centre. 35 Derby Road is now a hairdressers establishment following a previous refusal of a planning application by Merkur Slots to open a Bingo/Slots venue there in 2021. There has never been a gambling premises open at this address.

- Knowsley Borough Council (KBC) have produced and are actively pursuing their Huyton Village Masterplan; this is fully supported by the people of Huyton and is essential to the survival and revitalisation of the area. KBC have made positive progress in their goal of improving the shopping and amenity experience for visitors

to the Village and have already improved many of the shop frontages and filled vacant premises with alternative shopping opportunities and by encouraging the opening of restaurants and coffee shops to encourage visitors to stay longer in the centre. KBC are also in the process of securing a development partner to facilitate the larger improvements which will include residential and leisure opportunities, i.e., a cinema.

- The historic demographic for the area has been low income and unemployment though this is changing and increased housing development in the area is improving the mix and aspirations of the community. Historically the social environment was such that with a focus on major supermarket development on the edge of the town centre shop premises in the village became free and were filled by charity shops, betting establishments (four), a gaming/slots premises (opposite the vacant shop covered by this appeal) and a large Bingo Hall on the opposite fringes of the village centre. This is not an environment that encourages new growth but preys on the needs of those who can least afford it.

- The proposed use will prey on the needy for their profits and focus their developments of such communities. They are also aggressive in their approach to planning applications and threaten appeals at the initial approach, willing to fund legal challenge which reinforces the fact that they make huge profits from their outlets. This application is not conducive with the long-term strategy for Huyton Village, and we would plead to you that the wider good for the community must take precedence when considering this.

Planning History

06/00518/COU - CHANGE OF USE OF RETAIL UNIT FROM USE CLASS A1 (SHOPS) TO USE CLASS A2 (FINANCIAL AND PROFESSIONAL SERVICES).
Granted: 29.08.2006.

In addition, the following application was submitted by the applicant company operating as Cashino for another Huyton village centre site, 35 Derby Road Huyton, L36 9UQ: -

22/00523/COU - CHANGE OF USE OF RETAIL UNIT (USE CLASS E) TO FORM AN ADULT GAMING CENTRE (SUI GENERIS). Refused: 12.03.2021. Appeal dismissed: 18.11.2021.

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning

authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the Replacement Unitary Development Plan, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

KNOWSLEY LOCAL PLAN: CORE STRATEGY

CS1 - Spatial Strategy for Knowsley

CS2 - Development Principles

CS6 - Town Centres and Retail Strategy

CS19 - Design Quality and Accessibility in New Development

SAVED POLICIES - KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT PLAN (ADOPTED JUNE 2006)

S2 - Diversification of Uses within Existing Centres

Huyton Village Masterplan SPD (2017-2028)

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason for refusal, allowing the applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

Assessment

The main issues are the effect of the proposal on the vitality and viability of Huyton Village Centre, with particular reference to character and appearance, and whether the proposal would cause harm to the health and well-being of the local population, and in this respect are the same as the previously refused application for an adult gaming centre at 35 Derby Road ([20/00743/COU](#)) with the subsequent appeal (APP/V4305/W/21/3276693) against that refusal of planning permission being dismissed in November 2021.

Impact on Huyton Town Centre

The 'Spatial Vision' for Knowsley set out in the Core Strategy identifies that by 2028 Huyton Village Centre will have a defined and enhanced role and will be regenerated, vibrant and welcoming. This is reflected by the Core Strategy's 'Strategic Objective 4' which states that the Council will promote distinctive, viable and sustainable town centres in Huyton, Kirkby and Prescot by improving choice, variety and quality in their range of retail, leisure, and other town centre uses.

Chapter 6 of the Core Strategy sets out the area priorities for the Borough and it identifies that one of the priorities for Huyton is to enhance the town centre with appropriate retail uses focused within the Derby Road/Cavendish Walk primary

shopping area and a broader mix of evening, leisure and other service uses encouraged primarily in other parts of the town centre.

Policy CS6 (Town Centres and Retail Strategy) in the Core Strategy states that in order to enhance the vitality and viability of Knowsley's Centres and maintain appropriate local service provision, Huyton, Kirkby and Prescot town centres will enhance their equal role in providing 'comparison' and 'convenience' shopping which will be supplemented by a complimentary mix of leisure, health, residential, education, cultural, employment, service uses and complimentary evening and night-time uses.

Saved Policy S2 in the Unitary Development Plan states that proposals for the change of use of existing buildings to provide town centre uses within existing town and district centres will be permitted provided that:

- i) The proposal would be compatible with the scale and role of the centre and would not have a detrimental impact on the retail function of the centre; and
- ii) The proposal would not result in a grouping of uses which would have a negative impact on the character of the centre.

Further, the Town Centre Uses SPD as revised and adopted in September 2022 sets out thresholds for the concentration of pay day loan shops, pawn brokers and gambling uses in town centres, and it states that such uses within a retail centre will not be granted if it causes an unacceptable grouping of uses which would have a negative impact on the character of the centre.

The updated SPD has only recently been adopted by the Council and is a significant material consideration when deciding the application.

The SPD states that an unacceptable grouping of uses that would have a negative impact on the character of the centre occurs when the following thresholds are exceeded:

- a. Within a town centre: more than 5% of the number of ground floor non-residential units being in a pay day loan shop use, pawnbroker use, gambling use, or a combination of these uses.
- b. Within a district, major or medium local centre, or local shopping centre / parade: more than 10% of the number of ground floor non-residential units being a pay day loan shop use, pawnbroker use, gambling use, or a combination of these uses.
- c. In all locations: two or more adjoining pay day loan shop uses, pawnbroker uses, gambling uses, or a combination of these uses in a frontage.
- d. In all locations: less than two units (in uses other than pay day loan shop use, pawnbroker use, or gambling use) between gambling uses, pay day loan shop use, pawnbroker use, or a combination of these uses.

The SPD states that when applying the thresholds. Percentages should be rounded down.

It is noted that the previous version of the SPD specified betting shops rather than gambling uses, the latter is more encompassing and covers uses such as adult gaming centres such as that being proposed.

The Town Centre Uses SPD also states that in all cases, proposals shall provide active shop frontages, especially on prominent corner locations and avoid the provision of inactive frontages that are detrimental to the character and vitality of the

Borough's retail centres.

Huyton Village is a relatively small town centre that comprises around 117 commercial premises. There are currently 7 premises which are in use for the purposes of gambling, or as a payday loan shop or a pawnbroker meaning that 5.98% of the centre's commercial units are in a use covered by the SPD (for the purposes of the SPD this means that 5% of the uses are currently in a use related to gambling which is restricted by the SPD guidance). Should this application be allowed this would rise to 6.8% (or 6%) which exceeds the 5% stated threshold in the SPD for such uses and establishments in town centres.

It is acknowledged that the lawful use of the premises is as a bookmakers, however, the applicant has not submitted any information to demonstrate that it has a viable fall back position as a bookmakers. Given the presence of three major high street bookmakers in Huyton Village Town Centre and the fact that the premises which is the subject of this application was recently vacated by Ladbrokes the local planning authority does not believe that the units reuse as a bookmakers is a realistic proposition.

The proposed development would therefore cause an unacceptable grouping of uses in the Town Centre (including an adult gaming centre on the adjacent terrace of units) which would have a negative impact on the character of the centre.

The Council has significantly invested in Huyton Village Town Centre and adopted the Huyton Village Masterplan Supplementary Planning Document (SPD) in April 2017. It sets out the Council's vision for the centre, and along with the Town Centre Uses SPD carries significant weight. Whilst the site address is Cavendish Walk this part of Cavendish Walk is in reality an extension of Derby Road.

The adopted Huyton Village Masterplan Supplementary Planning Document (SPD) identifies Derby Road as the key retail high street and states that Derby Road should retain its status as the key retail high street. One of the key strands of the SPD is to focus activity on key streets and Policy HV3 (Promoting Good Quality Street Frontages) in the SPD identifies that development in Huyton Village will be required to directly address the centre's streets and spaces and that blank frontages, which do not add life to public streets and important routes, should be avoided. Derby Road should remain the core high street retail axis. Policy HV6 (Strengthening Huyton Village's retail environment) requires retail activity to be concentrated in Derby Road to support trade in these locations.

Furthermore, a 'Potential Land Use Framework' in the SPD identifies that development should seek to strengthen the retail character of Derby Road as new development opportunities arise, and that the frontage of Derby Road should be characterised by ground floor retail uses.

Alongside the SPD and in order to realise the above vision, the Council approved, in December 2020, a 10 year 'Delivery Plan' for the village centre, which provides the blueprint for 53 individual and interlinked projects based on intervention by the Council and partner organisations. The Delivery Plan builds on the direct interventions in the village centre which the Council has already made to positively change the village centre and make it significantly more attractive and with a diversified 'offer', particularly in terms of food and beverage businesses. Significantly, it proposes to focus activity on key streets, providing Derby Road (and Cavendish Walk) with 'the right environment, atmosphere, offer and Experience'.

In June 2022 the Council appointed a development partner to help to deliver the masterplan and has submitted a bid for Round 2 of the Government's Levelling Up Fund to help to deliver the redevelopment of Huyton Village Town Centre.

Since the Core Strategy, and the Huyton Village Masterplan were published, it is acknowledged that changes to planning law at a national level now allow retail units to change to other uses (within 'Use Class E') such as restaurants, and offices or to a bank without planning permission. The Town Centre Uses SPD has been updated since this change and clearly identifies that the Council will support 'Class E Uses' in the Borough's Town Centres.

The proposed use does not fall into Use Class E and, therefore, there is no evidence that Government believes that such uses should be automatically acceptable anywhere in a town centre.^d Rather, it should be for local authorities to make this decision.

Having regard to other examples of adult gaming centres, they typically present a blank frontage to the high street because the gaming machines are obscured by advertisements in the window of the premises. Such an arrangement is contrary to the aspirations of the Huyton Village Masterplan SPD, The Town Centre Uses SPD and Core Strategy, which focus upon adding vibrancy to Derby Street/Cavendish Walk and avoiding blank frontages which do not add life to public streets and important routes. Generally, uses falling within the new Use Class E are likely to add vibrancy and life to a street whereas the proposed adult gaming centre use is very unlikely to do so because of its inactive frontage, which would prevent views into the premises.

The application site occupies a prominent corner location on the corner of Derby Road/Cavendish Road a pedestrian route from the Centre's main car parks just off Archway Road. The presence of an inactive frontage -which would be the consequence of the proposed use - with no activity facing the street in this important location, would be to the detriment of the character and feel of Huyton Village Town Centre, and would be contrary to the Town Centre Uses SPD and the objectives of the Huyton Village Masterplan Supplementary Planning Document (SPD) and Delivery Plan. The situation is exacerbated by the three-unit block adjacent which has limited active frontage due to the uses of those units.

It is acknowledged that the premises are currently vacant and have been since the end of last year / start of this year. However, no marketing evidence has been presented by the applicant to demonstrate that there is no interest in it, either for retail use (which would be entirely appropriate and acceptable given the location and Council policies and the SPDs) or commercial use. Furthermore, in the context of the Council's recent investments into Huyton village centre, which have directly attracted £0.593m of investment and created 60 new jobs, the recently approved Delivery Plan for the town centre and the recent changes to the Use Classes Order, the application site is likely to become more attractive to the market in a use that would be complimentary to the agreed vision for the village centre.

A planning application by Cashino to change the use of 35 Derby Road was refused in March 2021 and then dismissed at appeal in November 2021, the unit shared similar characteristics to the application site - it was a vacant dual fronted unit in a prominent location on Derby Road, the site is approximately 50m away from the application site. The appeal decision is an important material consideration which must attract significant weight. The Planning Inspector agreed with the Council that an adult gaming centre with an inactive frontage would cause unacceptable harm to

the vitality and viability of Huyton Village Centre, with particular regard to its character and appearance. It is also noted that a barber shop now occupies that unit which gives further weight to the Council's argument that the application site could be an attractive proposition for a business in Class E.

In summary, the proposal would have a materially harmful effect on the vitality and viability of Huyton Village Centre, with particular reference to character and appearance and this would also conflict with the aims of the approved delivery plan. Conflict would therefore arise with Saved UDP Policy S2 and Core Strategy Policy CS6 which seek to ensure that, amongst other matters, proposed changes of use would not have a negative impact on the character of Knowsley's centres and would enhance their vitality and viability.

It would also conflict with the Town Centre Uses SPD and the adopted Huyton Masterplan SPD.

Impacts on the Health and Wellbeing of Knowsley Residents

Strategic Objective 3 ('Regenerate and Transform') in the Core Strategy is to regenerate and transform areas of social and economic deprivation, so they become more sustainable, safer, healthier and more cohesive communities, thus narrowing the gap between the richest and poorest communities in Knowsley. Strategic Objective 3 identifies North Huyton, Stockbridge Village and Kirkby as the areas most affected by social and economic deprivation and states that the Council will seek to narrow the gap in deprivation levels between these areas and other parts of Knowsley in terms of both income and social capital (i.e. community cohesion and health).

Strategic Objective 9 ('Promoting Health and Wellbeing in Knowsley') in the Core Strategy states that the Council will seek to address existing health inequalities and encourage enhancements to the health and well-being of Knowsley's residents by ensuring a health promoting environment and provision of healthy lifestyle options for those living and working in the borough. It states that the objective will encourage new development to have a positive impact on the health and wellbeing of individuals and population groups by providing a healthy environment and opportunities for healthy lifestyle options for those living and working in the borough.

Policy CS2 (Development Principles) in the Core Strategy states that new development in Knowsley will be expected to promote sustainable economic development, tackle the causes of deprivation and disadvantage, and narrow the gap between the richest and poorest neighbourhoods by:

- i) Reducing economic, environmental, education, health and other social inequalities between Knowsley and other parts of the UK; and
- ii) Providing opportunities for positive lifestyle choices and health improvement for people of all ages.

Chapter 6 of the Core Strategy sets out the area priorities for the Borough. When addressing Huyton and Stockbridge Village, it sets out that the key issues include high levels of deprivation including health inequalities, low life expectancy, worklessness, low educational attainment and crime in North Huyton and Stockbridge Village.

As set out above, UDP Saved Policy S2 (Diversification of Uses within existing Centres) states that the Council will only allow changes of use in a town centre

where the use would not lead to a cluster of uses which would have a negative impact on the character of the centre. Further, the Town Centre Uses SPD sets out relevant thresholds for such clusters of gambling uses, Pay day loan shops and pawn brokers(combined) which should not be exceeded or planning permission would not be granted.

The SPD policy is tied to Saved Policy S2 in the UDP which principally deals with the impacts of such uses on the vitality of the town centre rather than tackling the causes of deprivation and disadvantage, which are strategic objectives of the Core Strategy and the focus of Policy CS2.

This application proposes a gaming centre, numbers of machines not given, but some of which would allow players to gamble stakes of £2 for a prize of £500 and £1 for a prize of £100 as in other similar centres operated by the applicant.

Knowsley is one of the most deprived local authority areas in the country and the levels of deprivation in Huyton are roughly double that of England, with over a quarter of resident's income deprived.

Public Health have strong concerns about the application will increase the opportunity to gamble, further normalise the behaviour and therefore is highly likely to have a negative impact on health for many.

'Problem gambling' is thought to be closely associated with lower socio economic groups and the Faculty of Public Health identify that people living in areas of deprivation are more likely to experience gambling related harm, with lower income households spending a higher proportion of their income on gambling.

There are three bookmakers and an adult gaming centre in Huyton Village Centre and given their presence and the relative levels of deprivation in Huyton (and Knowsley as a whole), the addition of a further adult gaming centre in Huyton village centre, would exacerbate existing health inequalities and deprivation in the area by increasing the accessibility and opportunities to gamble, particularly given the location of the premises, in a prominent and accessible location within Huyton village centre. Accordingly, given the levels of deprivation and population characteristics in the area, granting planning permission for another adult gaming centre would exacerbate health inequalities.

Nevertheless, this matter was considered by the Planning Inspector when he dismissed the appeal relating to an adult gaming centre at 35 Derby Road. As set out earlier in this report this appeal decision is an important material consideration which must be given significant weight.

The Inspector decided that despite the Council's views there was insufficient evidence in respect of gambling addiction in the borough or to establish a clear link between the current gambling establishments in the town centre and North Huyton's current deprivation levels. As he decided that there is little conclusive evidence to suggest that the introduction of an adult gaming centre in Huyton Village Town Centre would exacerbate the issues of health inequalities and deprivation.

Given the significant weight which must be given to the Inspector's decision it is considered that there is no conflict with the development plan in respect of the impacts of the development on public health.

Highway Considerations

The site is within the main pedestrianised part of Huyton village centre and there are public car parks nearby. As such, parking and highway safety concerns are not raised by the proposal.

Amenity Considerations

Policy CS19 in the Core Strategy requires that new developments maintain a good standard of amenity for all existing and future occupants of land and buildings, and minimise crime, fear of crime and anti – social behaviour.

The site is within the pedestrianised part of Huyton town centre with the nearest residential properties located on Archway Road and as such the proposed use, despite its potential 24/7 operation would not have unacceptable impacts on residential amenity by way of noise and disturbance.

Whilst such premises can lead to concerns that such uses lead to increased levels of crime and anti-social behaviour there is no evidence which shows that the proposed use would exacerbate any existing problems in this instance. Merseyside Police raised no objections to the previous proposal for the change of use of 35 Derby Road so as the premises are close and the uses proposed the same the Police were not consulted with regard to the current application on the basis that there would be no objections to this application if none were raised with regard the previous. On this basis, it is not considered that the proposed development would lead to increased crime and anti-social behaviour in the locality.

Conclusion

The proposed development would have an unacceptable impact on the vitality and viability of Huyton Village Town Centre because it would result in an inactive frontage on a prominent location on the main street within the centre. The proposal would also lead to an unacceptable grouping of gambling uses within the centre contrary to the Town Centre Uses SPD.

The Council has concerns about the link between the proposed use, problem gambling and deprivation in North Huyton, however, given significant weight which must be given to the recent appeal decision at 35 Derby Street there would be no conflict with the development plan with regard to impacts on public health.

Recommendation

That Planning Permission be refused for the following reason(s): -

1. The proposed development would result in an inactive frontage on a dual fronted premises in an important and prominent location in Huyton Village Town Centre, this would have an unacceptable impact on the vitality and viability of Huyton Village Centre with regard to its character and appearance and would be contrary to Saved Policy S2, the objectives and Policy CS6 of the Core Strategy, The Town Centre Uses SPD and the Huyton Village Masterplan SPD. It would also dilute and be contrary to the aims of the recently approved Delivery Plan for the village centre.
2. The proposal would result in more than 5% of units in Huyton Village Town Centre in use for the purpose of gambling, pay day loan shops and/or pawn and would lead to an unacceptable grouping of such uses which would have an unacceptable negative impact on the character of Huyton Village Town Centre. This is contrary to Saved Policy S2, the objectives and Policy CS6 of the Core

Strategy, The Town Centre Uses SPD and the Huyton Village Masterplan SPD. It would also dilute and be contrary to the aims of the recently approved Delivery Plan for the village centre.

Signed Case Officer: **Lee Osborne**

Signed Authorising Officer: **Alan Kilroe**

Date: **20/10/22**