

**North Yorkshire Council**

**Community Development Services**

**Harrogate and Knaresborough Area Constituency Committee**

**25<sup>TH</sup> JULY 2023**

**23/01169/FUL - THE CHANGE OF USE OF THE BUILDING, FROM A BUILDING SOCIETY TO AN ADULT GAMING CENTRE AT 30 HIGH STREET, KNARESBOROUGH, HG5 0EQ ON BEHALF OF MR CARL BEARMAN**

**Report of the Corporate Director of Community Development Services**

**1.0 Purpose of the Report**

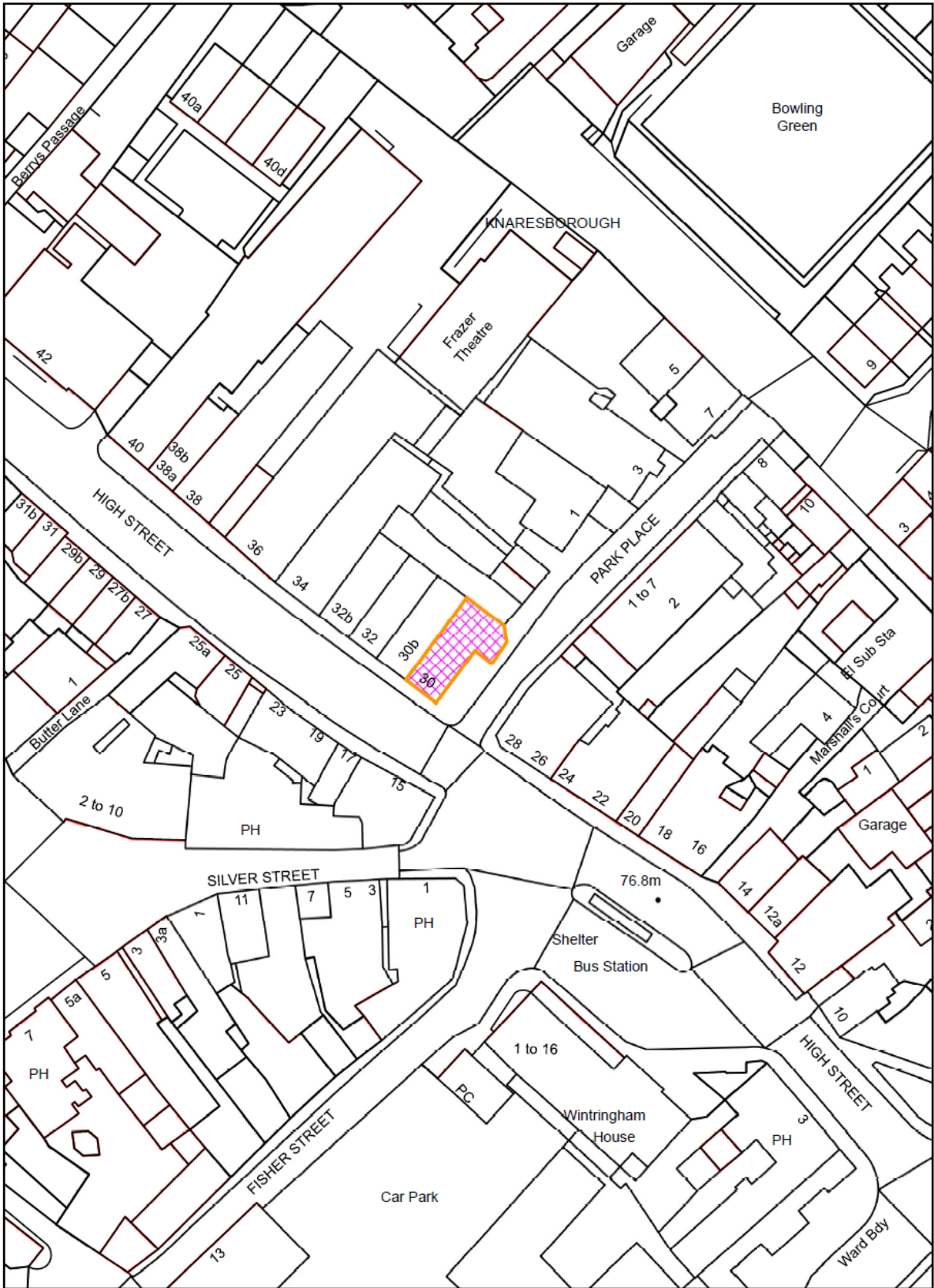
- 1.1 To determine a planning application for the Change of Use of the Building from a Building Society to an Adult Gaming Centre on land at 30 High Street, Knaresborough, HG5 0EQ.
- 1.2 This application is brought to the Area Planning Committee because a Member of the Council has made representations in writing to the Corporate Director of Community Development within the publicity period and the Corporate Director of Community Development in consultation with the Chair is satisfied that it has been demonstrated that the application raises significant material planning issues.

**2.0 SUMMARY**

**RECOMMENDATION: That planning permission be GRANTED subject to the conditions listed below.**

- 2.1. This application seeks permission for the change of use of a currently vacant ground floor unit from a building society (Use Class E) to an adult gaming centre (sui generis), similar to that of an arcade or amusement type activity for over 18 year old users. This application is for the change of use only and any external works will require further consent.
- 2.2. The site is situated on a corner of Knaresborough High Street and Park Place is within the Knaresborough Conservation Area.
- 2.3. The principle of the proposed use in this location within the Primary Shopping Area of Knaresborough complies with Policy EC5 of the Harrogate District Local Plan. The proposal also complies with Policy HP2 in relation to its impacts on the character and appearance of the Knaresborough Conservation Area, and no external alterations are proposed.
- 2.4. Subject to conditions, the proposal is acceptable with regards to its impact on neighbouring amenity, and in particular the impact of noise on the residential flats above the ground floor unit subject to this proposal. As such, subject to conditions, the proposal is considered to comply with Policy HP4. The development has been found to be acceptable in relation to highways issues.

- 2.5. The proposed change of use complies with the relevant policies of the Development Plan and it is not considered that there are any other material planning considerations that would justify refusing permission in this case.



# Location Plan

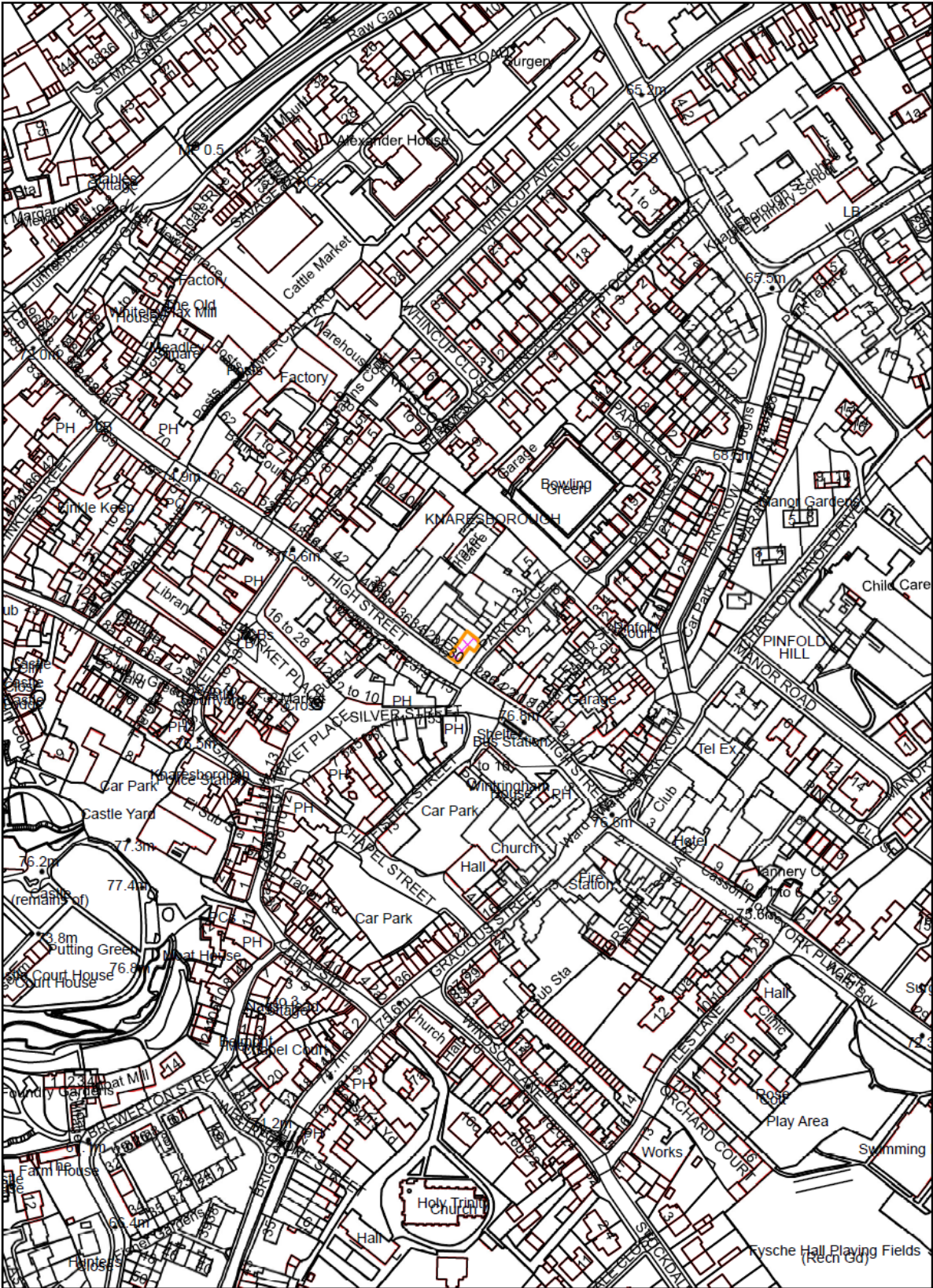
Scale 1:750

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13/07/2023





# Site Plan

Scale 1:2,500



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### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found [here](#)

### **4.0 Site and Surroundings**

- 4.1. The application site is the ground floor of the building known as '30 High Street' and extends to 60sq. metres. Access to the site is via Knaresborough High Street. The site is only occupied by one building.
- 4.2. The site is located within the town centre of Knaresborough, which has a wide range of facilities. There are supermarkets, hairdressers, barbers and cafes nearby, as well as King James' High School. Junction 47 of the A1(M) is approximately 3.5 miles east of the site.

### **5.0 Description of Proposal**

- 5.1. This application seeks Full Planning Permission for the change of use of the vacant ground floor unit at 30 High Street in Knaresborough from a building society (Use Class E) to an adult gaming centre (Sui Generis).
- 5.2. This application is for the change of use only and any external works will require further consent.

### **6.0 Planning Policy and Guidance**

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

#### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:
- Harrogate Local Plan 2014-2035, adopted 2020

#### Guidance - Material Considerations

- 6.3. Relevant guidance for this application is:
- National Planning Policy Framework 2021
  - National Planning Practice Guidance
  - Knaresborough Conservation Area Character Appraisal

### **7.0 Consultation Responses**

- 7.1. The following consultation responses have been received and have been summarised below.



7.2. **Knaresborough Town Council:** Knaresborough Town Council objects due to noise impacts on flats above the premises both inside and outside of opening hours. An adult gaming premises would detract from appearance of the high-street.

7.3. **Ward Member(s):** No comments received.

7.4. **Environmental Health Officer:** No objections subject to conditions following the receipt of a Noise Impact Assessment.

7.5. **Highway Authority:** No objections.

#### Local Representations

7.6. Three local representations have been received in objection to the application. A summary of the comments is provided below, however, please see the website for full comments.

7.7. Objections:

- Concerned about the noise levels and impact on flats above
- Proposed use is inconsistent with this location
- May exacerbate anti-social issues as it is near a bus-stop
- Opening hours too long
- Permission would lessen the retail units on the high street (primary shopping frontage)
- Negative impact on streetscene

### **8.0 Environment Impact Assessment (EIA)**

8.1. The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

### **9.0 Main Issues**

9.1. The key considerations in the assessment of this application are:

- Principle of development / Impact on Shopping Centre
- Impact on the Conservation Area
- Neighbouring Amenity

### **10.0 ASSESSMENT**

#### Principle of Development / Impact on Shopping Centre

10.1. Given the nature of this proposal, and the location on Knaresborough High Street, Policy EC5 of the Local Plan is particularly relevant.

10.2. Policy EC5: Town and Local Centre Management part A states: Proposals involving either the loss of existing A1 shops(s) in ground level frontages, or the creation of additional floorspace at ground level not intended for a class A1 retail use within the

primary shopping frontages of Harrogate, Knaresborough and Ripon will only be permitted where there is no harmful impact on the vitality and viability of the centre.

- 10.3. Policy EC5: Town and Local Centre Management part B states: Proposals for non class A1 uses considered appropriate to a shopping area will be permitted at ground floor level within secondary shopping frontages of Harrogate, Knaresborough and Ripon; the town centres of Boroughbridge, Masham and Pateley Bridge; and Harrogate's local centres (Cold Bath Road, High Harrogate, Jennyfield, Kings Road, Leeds Road, Starbeck and Knaresborough Road) provided this would not result in, or add to, a concentration of similar uses, the cumulative effect of which would:
- i. Result in a significant adverse impact on the vitality or viability of the centre;
  - ii. Generate levels of traffic that would cause significant congestion and/or road safety problems;
  - iii. Result in three or more consecutive shop units in non A1 use

In all cases applicants will be required to demonstrate that they have considered all alternative vacant premises last in non class A1 use within the town centres based on availability and suitability and explain why these would not be suitable.

- 10.4. The property is located within the primary shopping frontage of Knaresborough as shown on the Proposals Map in the Local Plan. Therefore, part A of Policy EC5 as referred to above in paragraph 10.2 is relevant rather than part B. Part A of the policy states that proposals involving either the loss of existing A1 shops(s) in ground level frontages, or the creation of additional floorspace at ground level not intended for a class A1 retail use within the primary shopping frontages of Harrogate, Knaresborough and Ripon will only be permitted where there is no harmful impact on the vitality and viability of the centre.
- 10.5. The last use of this premises was as a building society. The former use fell into Use Class A2 of the Use Classes Order prior to changes to the Order in August 2021. Therefore, the proposed change of use does not involve the loss of existing A1 shop use on a ground floor frontage or the creation of additional floorspace at ground floor level not intended for a Class A1 retail use within the primary shopping frontage. Accordingly, there is no conflict with part A of Policy EC5, which is concerned with protecting the vitality and viability of retail centres.
- 10.6. Since the adoption of the Local Plan in 2020 there have been amendments to the Use Classes Order in 2021 that have subsumed the former Use Class A1 along with various other former use classes into a new Use Class E (Commercial, Business and Service), allowing greater flexibility for town centre premises to change use without requiring a planning application. In this case, the former use of the building as a building society (Use Class A2) also now falls into the new Use Class E. This means that it is currently possible that the use of the premises could be changed to a retail shop use (former Use Class A1) without requiring a planning application but it is also the case that the use of the building could currently be changed to a variety of other specific uses that did not fall into the former Use Class A1 but now also fall into Use Class E. Indeed, the last use of this building did not fall into the former Use Class A1.

Planning permission is required here because the proposed use does not fall into any specific use class (so it is a sui generis use) and so it falls outside Use Class E.

- 10.7. The proposed use would bring about the re-use of the property and it is not considered that the use would be incompatible with the town centre location. It is also noted that the shop to the left of the premises is a hairdressers, which was formerly an A1 use (now use class E), so the proposed change of use would not lead to a concentration of properties in use for non-retail uses (and the previous use of the application unit in any case was not as a retail shop). Therefore, it is considered that the proposal will not harm the vitality and viability of the shopping area and retail centre.
- 10.8. It is also considered that the proposal will not generate unacceptable levels of traffic in the local area, and will not cause congestion or road safety issues given the small-scale nature of the proposal and the size of the building in question. The local highway authority has raised no objections to the proposal.
- 10.9. Therefore, the proposed use would comply with Policy EC5 of the Local Plan because the proposed change of use does not involve the loss of existing A1 shop use on a ground floor frontage or the creation of additional floorspace at ground floor level not intended for a Class A1 retail use within the primary shopping frontage.

#### Impact on the Conservation Area

- 10.10. Local Plan Policy HP2 relates to heritage assets and states that proposals for development that would affect heritage assets (designated and non-designated) will be determined in accordance with national planning policy.
- 10.11. The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and it is a material consideration in planning decisions.
- 10.12. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area.
- 10.13. Section 16 of the NPPF (Conserving and enhancing the historic environment) advises in Paragraph 199 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and the more important the asset, the greater the weight should be.
- 10.14. The proposal, in terms of its impact on the conservation area, is considered acceptable. No external alterations are proposed and any new signage will be subject to a separate advertisement consent application as necessary. As such, at this location it is considered that the proposal would preserve the character and appearance of the Conservation Area and comply with Section 72 of the Planning



(Listed Buildings and Conservation Areas) Act 1990 and national and local planning policies relating to heritage assets.

#### Residential Amenity and Noise Nuisance

- 10.15. Impacts on neighbouring properties is an important consideration and locally published documents cover the importance of discouraging development which could overshadow or present a loss of privacy. Policy HP4 states that development proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours and considers the impact of development on overlooking, overbearing and other disturbances.
- 10.16. Given the nature of this proposal and the proximity with residential flats, the Council's Environmental Health Officer has been consulted and has provided comments on this proposal.
- 10.17. The environmental health officer initially requested that a Noise Impact Assessment was carried out and submitted to the Council before they could comment on the proposal further. This was supplied and the environmental health officer has stated that the main form of attenuation between the premises subject to the change of use and the flats above is through improvement of the floor between the flats and the commercial unit. The impact assessment further states that with the number of gaming machines and the normal operating volumes (50% volume) operating there would be a need to upgrade the ceiling to ensure no adverse impact to residents above.
- 10.18. With machines operating on 25% volume with a number of machines operating, the environmental health officer states that there is no need to upgrade the ceiling with sound insulation, however, this is only if machines are operated at 25% volume and with operations ceasing at 22:00 every night. The environmental health officer has stated that on this basis the proposal should have no impacts on the flat above, however, these stipulations are required to be included as conditions, with repairs to the ceiling also implemented. It is recommended that the conditions suggested by the environmental health officer including those relating to opening hours will be applied to any permission granted.
- 10.19. In summary, subject to conditions, the proposal is considered to comply with Policy HP4 of the Local Plan in respect of the impacts upon amenity.
- 10.20. Public comments have also been raised about anti-social behaviour but it is not considered that there is any evidence that the proposed use would be a contributing factor towards this.

#### **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1. The proposed development will result in the change of use of a currently vacant ground floor premises formerly used as a building society to an adult gaming centre situated on Knaresborough High Street, within the Knaresborough Conservation Area. The principle of the proposed use in this location within the Primary Shopping

Area of Knaresborough complies with Policy EC5 of the Harrogate District Local Plan. The proposal also complies with Policy HS2 in relation to its impacts on the character and appearance of the Knaresborough Conservation Area, and no external alterations are proposed.

- 11.2. Subject to conditions, the proposal is acceptable with regards to its impact on neighbouring amenity, and in particular the impact of noise on the residential flats above the ground floor unit subject to this proposal. As such, subject to conditions, the proposal is considered to comply with Policy HP4.
- 11.3. The development has been found to be acceptable in relation to highways issues.
- 11.4. The proposed change of use complies with the relevant policies of the Development Plan and it is not considered that there are any other material planning considerations that would justify refusing permission in this case.

## **12.0 RECOMMENDATION**

- 12.1 That planning permission be GRANTED subject to conditions listed below

### **Recommended conditions:**

#### **Condition 1 Time Limit**

The development hereby permitted shall be begun on or before three years from the date of this permission.

Reason: To ensure compliance with Sections 91-94 of the Town and Country Planning Act 1990.

#### **Condition 2 Approved Plans**

The development hereby permitted shall be carried on in strict accordance with the following drawings:

Floor Plan Existing 'Lease Plan' received 22<sup>nd</sup> March 2023

Reason: To ensure compliance to the approved drawings.

#### **Condition 3 Hours of Operation**

The development shall not operate between 22:00 and 09:00 hours.

Reason: In the interests of residential amenity

#### **Condition 4 Machine Operating Volume**

The gaming machines shall be set to operate at no more than 25% volume with the levels set independently without being able to be adjusted.

Reason: In the interest of residential amenity

### **Pre-Occupation**

**Condition 5 Validation Report (discharge required)**

Before first occupation, the developer shall provide written evidence to the local planning authority to demonstrate that the predicted sound levels have been met, as discussed in the noise impact assessment from Infinity Acoustics ref: A034UG dated May 2023.

If it cannot be demonstrated that the aforementioned sound levels have been achieved, a scheme incorporating further measures to achieve those sound levels shall be submitted to and agreed in writing by the local planning authority. All works found within those sound levels shall be completed and written evidence to demonstrate that the aforementioned sound levels have been achieved shall be submitted to and approved in writing by the local planning authority before the development is first brought in to use.

All measures approved shall be maintained for the lifetime of the development.

Reason: In the interests of residential amenity

**Target Determination Date:** 17.05.2023

**Case Officer:** Sam Witham, [sam.witham@northyorks.gov.uk](mailto:sam.witham@northyorks.gov.uk)

**Appendix A – Proposed Layout Plan**