

North Yorkshire Council
Community Development Services
Scarborough and Whitby Area Planning Committee
13 MARCH 2025

ZF24/01954/FL - Change of use from Bank (Class E) to adult gaming centre (sui generis) at Halifax, 67 - 68 Baxtergate, Whitby, North Yorkshire, YO21 1BL, on behalf of Luxury Leisure (I Miller)

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the report

- 1.1 To determine a planning application for the change of use of a bank (Class Use E) to an adult gaming centre (Sui Generis).
- 1.2 The proposal is being considered by the Scarborough and Whitby Planning Committee following a request by an elected member of the Authority and the significant public interest in the application.

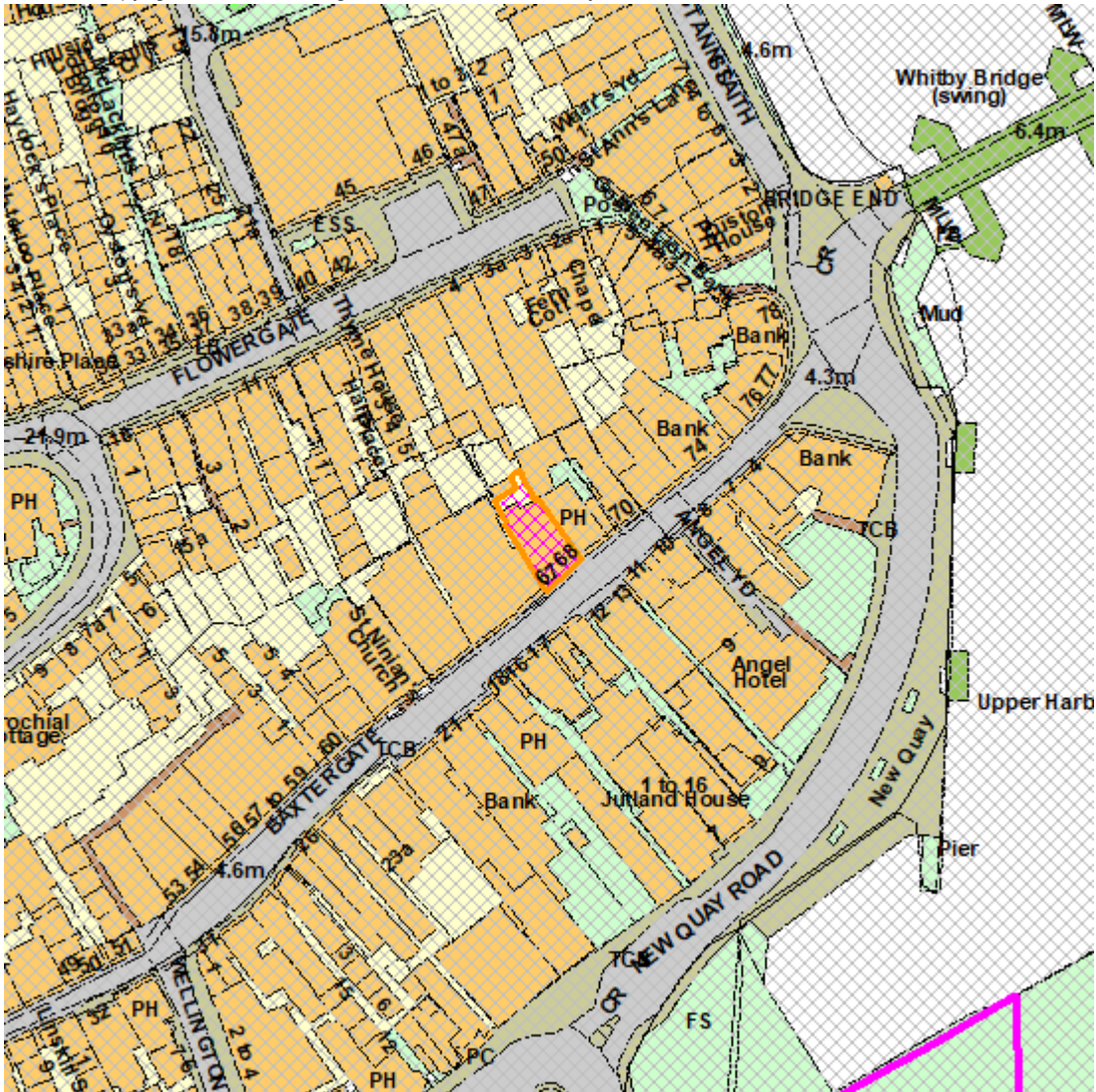
2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to the conditions contained within this report.

- 2.1 This application seeks full planning permission for the change of use of a bank (Class Use E) to an adult gaming centre (Sui Generis) at 67-68 Baxtergate, Whitby. Following the announcement of widescale bank branch closures at the start of the year across the country, the proposal would seek to change the use of this branch, which is set to close in May 2025.
- 2.2 The ground-floor level of the unit would be utilised for patrons, including water closets, whilst the upstairs would include two water closets and be used for staff employed to operate the use. The opening hours of the use would be twenty-four hours a day, Monday-to-Sunday, including bank holidays.
- 2.3 The proposed use would be located within the designated Town Centre of Whitby. Annex 2 of the National Planning Policy Framework outlines those uses which are considered acceptable for a town centre; among those include: casinos, leisure, and bingo halls. Given the definitions provided, it is considered that the proposed change of use to an adult gaming centre falls within those definitions, and therefore it is concluded that the proposal would comprise a main town centre use, as defined by the National Planning Policy Framework, and therefore, is acceptable in principle.



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3.0 Preliminary Matters

- 3.1 Access to the case file on Public Access can be found here: [ZF24/01954/FL | Change of use from Bank \(Class E\) to adult gaming centre \(sui generis\) | Halifax 67 - 68 Baxtergate Whitby North Yorkshire YO21 1BL](#)

4.0 Site and Surroundings

- 4.1 The site comprises a double-fronted ground-floor unit operating as a bank, located within an established mixed-use area of Whitby. The host building is two-storey in nature, with a commercial frontage comprising double-width glazing, and a brick extension at first-floor which includes 2no. uPvc windows. The first-floor appears to be a recent alteration as it does not conform with the prevailing historic appearance of the surround area on Baxtergate.
- 4.2 The site is located within the designated Town Centre Boundary, as defined by the Local Plan Policies Map (adopted 2017), and by virtue of its central location; there are a number of retail units, food outlets, public houses and other services, facilities and commercial units nearby.
- 4.3 Whitby has a long-established tourist-based economy and is a major visitor destination. As a result, the nearby Pier Road includes a number of gift shops, restaurants and fish-and-chip takeaways, in part, due to its location as a coastal town.
- 4.4 The site lies to the west of the swing bridge which connects the two parts of the town centre, and is defined as being located within the "Commercial centre of the town and west side of the harbour", as outlined by the Whitby Conservation Area Character Appraisal.
- 4.5 The immediate adjacent buildings to the host site include the Black Swan public house to the east, and a Boots pharmacy to the west. The building opposite comprises a Costa Coffee. The general arrangement of the built environment comprises commercial units at the ground-floor, and offices or residential flats above. These types of uses are commonplace throughout Baxtergate and the surrounding area. Additionally, there are a number of holiday lets and tourist accommodation nearby. The site also lies within the Primary Shopping Area, as defined by the Local Plan Policies Map (adopted 2017).
- 4.6 To the east of the site lies the River Esk and to the west Pannett Park. The site also lies within the designated Conservation Area of Whitby.

5.0 Description of Proposal

- 5.1 This application seeks planning permission for the change of use of a bank (Class Use E) to an adult gaming centre (Sui Generis) at 67-68 Baxtergate, Whitby. Due to statutory requirements; the proposed use will be lawfully prohibited from granting access to the use for persons aged under 18, and therefore, will be an "adults only" form of leisure use.

- 5.2 The ground-floor level of the unit would be utilised for patrons, including water closets, whilst the upstairs would be used for staff ancillary to the proposed use.
- 5.3 Proposed alterations to the frontage of the building are not the subject of this planning application and would require separate advertisement consent.

6.0 Planning Policy and Guidance

- 6.1 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.2 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states special attention shall be paid to the desirability of preserving or enhancing the character of appearance of that area.

Adopted Development Plan

- 6.3 The Adopted Plan for this site is:
-Scarborough Borough Local Plan 2011 to 2032 adopted 2017

Emerging Development Plan - Material Consideration

- 6.4 There is no emerging development plan which covers the application site.

Guidance - Material Considerations

- National Planning Policy Framework
- National Planning Practice Guidance
- National Design Guide
- Whitby Conservation Area Character Appraisal

7.0 Consultation Responses

- 7.1 The following consultation responses have been received and have been summarised below.
- 7.2 Designing Out Crime Officer: Awaiting comments.
- 7.3 Environmental Health (Environment Protection): No objection, however, applicants should be aware they need to have the correct operating license.
- 7.4 Environmental Health (Commercial Regulation): Awaiting comments.
- 7.5 Environmental Health (Private Housing): Awaiting comments.
- 7.6 Highway Authority: No objection; request an informative be secured in the event of an approval to notify the applicant they must consult the Highway Authority before works affecting the front of the building and the public highway commence.

- 7.7 Licensing: Awaiting comments.
- 7.8 Planning Policy: Awaiting comments.
- 7.9 Whitby Town Council: Object to the proposal on the grounds that the site is an inappropriate location for the proposed use.

Local Representations

- 7.10 528 local representations have been received of which six are in support of the proposal, and 521 are objecting. The comments of support have been received from local residents, whilst the objections have been received from local residents, neighbouring businesses, holiday let owners, tourists/visitors to the town, elected officials and a chartered surveyor acting on behalf of local businesses and other interested parties who have been notified by the public notice of the application. Additionally, the Whitby Town Council have also objected to the proposal on the grounds that the site is inappropriate for the proposed use.
- 7.11 A summary of the comments received by the public consultation is provided below, however, please see website for full comments.
- 7.12 Support
- An AGC will be an excellent replacement for a disused bank, providing a good amount of footfall for the area, as well as another facet of nighttime activity for the town, as well as quickly filling an empty commercial property.
 - Create jobs
- 7.13 Object
- Oppose principle of use
 - Inappropriate location
 - Inappropriate use for a family tourist town - excludes families
 - Would adversely affect local hospitality industry
 - Loss of bank would harm town
 - Excessive number of casinos/gambling units
 - Preference for shop/retail unit
 - Preference for banking hub
 - Not in-keeping with area
 - Harmful to the local heritage of Whitby
 - Visual impact
 - Opening hours
 - Anti-social behaviour and insufficient resources to police
 - Increase in crime
 - Encourage gambling/adverse harm of gambling/social consequences
 - Contravenes Policy TOU5 which states new amusements should only take place on Pier Road, Whitby

8.0 Environmental Impact Assessment

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

9.0 Main Issues

9.1 The main issues are:

- Principle of Development
- Design and Impact on the Character of the Area and Setting of Nearby Listed Buildings
- Impact on Residential Amenities

10.0 Assessment

Principle of Development

- 10.1 Policy SH1 establishes the Settlement Hierarchy for the Scarborough Borough, where Whitby is identified as a "Town Centre". Whitby will be the focus for housing, employment, shopping, leisure, education, health and cultural facilities in the northern part of the Borough, where development should respond to local needs and reflect and enhance the high environmental quality and historic character of the town.
- 10.2 Policy TC1 of the Plan expands on this further, stating that the economic role of town centres will be maintained and enhanced; providing the scale of development is proportionate.
- 10.3 Similarly, Policy TOU1 states, 'The diversification of the tourism industry throughout the plan area will be supported and encouraged. Proposals for the development of new or the enhancement or expansion of existing tourism facilities will be permitted where they; a) respect the distinctive tourism character of the area in which the development is proposed, both in terms of the scale and nature of development; and b) wherever possible, help to reduce the seasonal nature of the tourism industry in the area.
- 10.4 The sub-text of this policy (para 7.77) states, 'Due to the seasonal nature of the tourism economy there is a need to develop a more diverse year-round tourism product by further capitalising on the existing natural and historic assets, including its proximity to the recreational opportunities provided by the North York Moors National Park, whilst also providing new visitor attractions'.
- 10.5 Para 90, part b, of the National Planning Policy Framework also states, 'Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should define a network and hierarchy of town centres and promote their long-term vitality and viability - by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters'.

- 10.6 Objections have been received regarding the loss of a bank branch which provide an important utility for those without online access, for those who wish not to engage with online banking and prefer to visit a physical branch.
- 10.7 Whilst the loss of a bank branch in a town centre may be regrettable, the proposal forms part of contemporary social and commercial trend in online banking; and consequently, the closure of physical banking premises, as evidenced by the announcement of widespread branch closures by several banks at the start of the year.
- 10.8 Public comments have been received in objection to the proposal on the grounds that the proposed use would fundamentally contravene Policy TOU5 of the Local Plan; which provides the criteria for acceptable leisure development within the Borough.
- 10.9 Part b, of the policy states that new amusement arcade should be restricted to Pier Road, however, the subtext of the policy qualifies the categories of use, stating: 'A distinction is made between the aims of the policy to control amusement centres of the open fronted arcade type within the areas where amusements are designed to attract holiday visitors and the alternative adult gaming centres, a modern form of amusement centre offering a closed and relatively discreet use of casual entertainment using electronic machines principally situated within shopping areas. In assessing any applications for adult gaming centres the Local Planning Authority would consider each one on a case by case basis, taking into account the mix of existing uses present in the locality and potential impacts that the use may have upon the amenity of an area'.
- 10.10 Whilst amusement facilities are commonplace in Whitby, they are, for the most part, concentrated in areas such as Pier Road to the north of the site. The proposal would provide the offering of a gaming facility which is not present elsewhere in the immediate locality, and may increase footfall in the area as a result as a result; thereby contributing positively to the local economy. Additionally, the proposed use would not be contrary to policy in this location; is considered appropriate in this instance, and would maintain the vitality and viability of the town centre, whilst diversifying the local economy and reducing the seasonal nature.
- 10.11 The proposed use would be located within the designated Town Centre of Whitby. Annexe 2 of the National Planning Policy Framework outlines those uses which are considered acceptable for a town centre; among those include: casinos, leisure, and bingo halls. Given the definitions provided, it is considered that the proposed change of use to an adult gaming centre falls within those definitions, and therefore it is concluded that the proposal would comprise a main town centre use, as defined by the National Planning Policy Framework, and therefore, is acceptable in principle.
- 10.12 Public comments have also been received; noting reference to an the decision by a Planning Inspectorate which dismissed an appeal as it excluded sections of society due to the "adults only" nature of the use; which precludes persons under the age of 18.

- 10.13 Whilst these objections are noted, it should be stated that there are existing uses near to the site that also preclude children; notably there are Ladbrokes betting shops on Old Market Place and New Quay Road, and therefore, it is considered that the proposed use of an "adults only" venue is established within the town centre location, and is acceptable in this case.
- 10.14 Given the above, it is considered that the proposed change of use from a bank to an adult gaming centre in a location which should be a focus for new development is acceptable in principle, and therefore, complies with policies SH1, TC1, TOU1 and TOU5 of the Scarborough Borough Local Plan and the relevant sections of the NPPF.

Design and Impact on the Character of the Area and Setting of Nearby Listed Buildings

- 10.15 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 10.16 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states special attention shall be paid to the desirability of preserving or enhancing the character of appearance of that area.
- 10.17 The proposed plans appear to demonstrate some alterations to the entrance of the building, however, no elevations have been submitted to reflect this. In any case, any alterations to the frontage including signage (which would be expected as part of the proposed change in use) would need to be submitted under separate planning and advertisement application. Due to limited changes proposed in the external surfaces of the building, the setting of the nearby listed buildings would not be affected, and similarly, the character and appearance of the designated Conservation Area of Whitby would be preserved.

Impact on Residential Amenities

- 10.18 The site is located in the Town Centre of Whitby where there are a mix of uses, including residential units. These range from upper-floor flats to cottages and townhouses; many of which are used as holiday lets.
- 10.19 There are limited alterations proposed to the physical appearance of the building and external surfaces, and therefore, the proposal would not result in the loss of light, privacy or outlook to nearby residential properties.
- 10.20 Objections have been received commenting on the late-night nature of the proposal; the associated comings-and-goings of the use, anti-social behaviour, crime, and the noise and disturbance that could be expected as a result.
- 10.21 Whilst the use may attract late-evening patrons given the 24-hour operating hours of the proposed use, the type of use proposed tends to be subdued in terms of volume from the building; insofar as the noise produced from the use would be

confined to being indoors. There are no outdoor areas proposed to be used as part of the building; and a limited levels of late-night noise can reasonably be expected from a town centre use. The nature of the proposed use would be different from the main grouping of open fronted amusement arcades on the north end of Pier Road, and therefore, would not produce the levels of noise and disturbance that can often be expected from that type of facility.

10.22 In addition to the above, the Council's Environmental Health department has raised no objection to the proposal on noise nor any other grounds.

10.23 It is therefore considered that the proposal would not result in adverse harm on the residential amenities of neighbouring properties, in compliance with Policy DEC4 of the Scarborough Borough Local Plan.

Highway Safety

10.24 The site lies on Baxtergate, which operates as a pedestrianised area. The Council's Highway Authority has responded to the consultation with no objection to the proposal.

11.0 PLANNING BALANCE AND CONCLUSION

11.1 The proposed change of use from a bank (Class Use E) to an adult gaming centre (sui generis) in a town centre location which should be a focus for such new development is considered to be acceptable in principle. The proposal would ensure that a commercial unit soon-to-be-vacant would remain in use in a prominent location within the town centre, adding to the tourism and leisure offering within the town centre, promoting footfall and would benefit the local economy.

11.2 The loss of the existing banking facility is not relevant to the consideration of this application.

11.3 The proposal would not result in harm to the character of the area, it would preserve the Conservation Area and would preserve the setting of nearby listed buildings. The proposal therefore complies with the relevant local and national policies and is recommended for approval.

12.0 RECOMMENDATION

That Planning Permission is GRANTED, subject to the conditions listed below:

1 The development hereby granted shall be carried out in strict accordance with the "Floor Plans as Proposed" (Drawing No. 3582(C)01), received on 13 December 2024.

Reason: for the avoidance of doubt.

2 All glass waste from the premises shall only be emptied into the bins within the bin storage area between the hours of 07:00 and 23:00 on any day, and shall be kept within the building outside of these hours.

Reason: this condition is imposed in accordance with Policy DEC4 of the Scarborough Borough Local Plan to protect the amenities of nearby residents.

- 3 There shall be no external amplified music played at the premises at any time.

Reason: This condition is imposed in accordance with Policy DEC4 of the Scarborough Borough Local Plan to protect the amenities of nearby residents.

Target Determination Date: 7 February 2025

Case Officer: Mr Luke Hadfield
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