



Item 6

28th May 2024

Planning Services 231 George Street GLASGOW G1 1RX Tel: 0141 287 8555 Email: onlineplanning@glasgow.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100637655-003

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:

Lichfields

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Arabella

Building Name:

Last Name: *

Stewart-Leslie

Building Number:

115

Telephone Number: *

Address 1
(Street): *

115 George Street

Extension Number:

Address 2:

Mobile Number:

Town/City: *

Edinburgh

Fax Number:

Country: *

Scotland

Postcode: *

EH2 4JN

Email Address: *

Is the applicant an individual or an organisation/corporate entity? *

☐ Individual ☒ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Luxury Leisure"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Fifth Avenue Plaza"/>
Company/Organisation	<input type="text" value="Luxury Leisure"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Newcastle upon Tyne"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="NE11 0BL"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Glasgow City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="335 SAUCHIEHALL STREET"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="GLASGOW"/>
Post Code:	<input type="text" value="G2 3HW"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="665913"/>	Easting	<input type="text" value="258301"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Use of betting office (sui generis) as Adult Gaming Centre (sui generis) and external alterations - Section 42 application for non-compliance with condition 3 of planning permission 20/01876/FUL

Type of Application

What type of application did you submit to the planning authority? *

- ☐ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☒ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see Statement of Review.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Please see covering letter.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

23/01945/FUL

What date was the application submitted to the planning authority? *

04/08/2023

What date was the decision issued by the planning authority? *

17/11/2023

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Miss Arabella Stewart-Leslie

Declaration Date: 13/02/2024

335 Sauchiehall Street, Glasgow

Statement of Grounds for Review

Use of betting office (sui generis) as Adult Gaming Centre (sui generis) and external alterations - Section 42 application for non-compliance with condition 3 of planning permission 20/01876/FUL

Luxury Leisure

13 February 2024

Lichfields is the pre-eminent planning and development consultancy in the UK

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for over 60 years.**

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Executive Summary

This Statement sets out Luxury Leisure's (herein referred to as 'the applicant') grounds for review of the decision by Glasgow City Council to refuse planning permission of application ref. 23/01945/FUL. The applicant has two premises in Glasgow city centre, 335 Sauchiehall Street (the property under consideration by this review) and 34 Queen Street.

The applicant sought the ability to operate its business from the property on a 24/7 basis without any restriction on trading hours and a deletion of Condition 3 (opening hours - 08:00 - 24:00). 335 Sauchiehall Street is an existing business within the Glasgow city centre which provides a positive street frontage and which has been operating as an adult gaming centre since 05 June 2021 without noise complaints. The applicant's other premise, 34 Queen Street, currently operates on a 24-hour basis without noise complaint. These findings are consistent with the submitted evidence of other adult gaming centres in the UK.

The council has concerns about increased footfall and the impact on residential amenity at unsocial hours. As outlined by the applicant, Sauchiehall Street is a strategic thoroughfare and a mixed-use area within the city centre with a variety of late-night uses. These established uses contribute to a higher level of background noise.

As per the evidence provided, late-night patronage of adult gaming centres is relatively low. Attendees are generally individuals rather than noisy groups due to the fact the premises offer low-stakes gaming and do not serve alcohol. To this extent, the applicant does not consider these levels of patronage to be material, especially in the context of the prevalent background noise on the street. It is therefore not considered that the extension of the opening hours will exacerbate any existing issues associated with the well-established night-time economy in the area.

The applicant respectfully requests the local review body consider this Statement and accompanying documents.

Contents

1.0	Introduction	1
2.0	Local review procedure	3
3.0	Background	4
	Proposed Amendment to Condition 3 of Planning Permission Ref. 20/01876/FUL	4
	Background to section 42 application	4
4.0	The site, Surroundings and Proposed Amendment	6
	The site and surroundings	6
	Planning History	7
5.0	Engagement with Council	8
6.0	Planning Policy Context	9
7.0	Reasons for Review	10
8.0	Alternative Modifications to Condition 3	20
	Preferred Option	20
	Alternative Wording for Condition 3	20
9.0	Conclusions	21

1.0 Introduction

- 1.1 This Statement has been prepared by Lichfields on behalf of Luxury Leisure ('the Applicant') in response to the refusal of the application ref. 23/01945/FUL under delegated powers, issued by Glasgow City Council ('the council').
- 1.2 The Statement has been prepared in accordance with the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013. It has been submitted alongside the requisite form, documents and evidence in accordance with the aforementioned regulations.
- 1.3 The application as determined sought permission (under section 42 of The Town and Country Planning (Scotland) Act 1997 as amended) for non-compliance with Condition 3 (opening times) of planning permission ref. 20/01876/FUL.
- 1.4 Our position, as articulated in this Statement, is that the reasons for refusal, when considered both individually and cumulatively, are inappropriate in the context of the Development Plan and other material considerations. The applicant has engaged positively and proactively with the Council throughout the determination process. They have presented alternative condition options to afford Glasgow City Council additional control over and above that originally sought to give comfort to allow the amendment to proceed.

Structure of this statement

- 1.5 This statement is structured as follows:
- Section 2: Background;
 - Section 3: The site, surroundings and proposed amendment;
 - Section 4: Planning policy context;
 - Section 5: Review of the reasons for refusal; and
 - Section 6: Conclusions.

List of documents

- 1.6 The complete package of documents which together form the request for local review comprises the following:
- Review Document 1: Cover letter
 - Review Document 2: This Statement
 - A copy of the submission package for the Section 42 application (Ref. 23/01945/FUL) to which this appeal pertains including:
 - Review Document 3.1: Location Plan;
 - Review Document 3.2 Planning application form;
 - Review Document 3.3: Cover letter with a supporting statement which includes case studies and evidence;

- Review Document 3.4: Email correspondence with the council regarding alternative conditions;
- Review Document 3.5: FOI response;
- Review Document 3.6: Decision notice; and
- Review Document 3.7: Report of Handling.
- A copy of the submission package for the original Change of Use application (Ref. 20/01876/FUL) that established the current use of 335 Sauchiehall Street including:
 - Review Document 4.1: Planning application form;
 - Review Document 4.2: Cover letter;
 - Review Document 4.3 Planning Statement;
 - Review Document 4.4 Noise Assessment;
 - Review Document 4.5 Drawing Package (Location Plan, Site Plan, Existing Floor Plan, Existing Elevations, Proposed Floor Plan and Proposed Elevations);
 - Review Document 4.6: Decision Notice; and
 - Review Document 4.7: Report of Handling.
- Review Document 5 Screenshots of Admiral website
- Review Document 6 Screenshot of WalkSafe website

1.7 Where additional information is required, the applicant will make this available.

2.0 Local review procedure

- 2.1 The applicant assumes that this review will be conducted based on written submissions but should the Planning Local Review Committee deem that a hearing session was appropriate the applicant would very much welcome the opportunity to present their case to the Committee.

3.0 Background

Proposed Amendment to Condition 3 of Planning Permission Ref. 20/01876/FUL

- 3.1 Planning application ref. 23/01945/FUL sought the ability to operate the consented adult gaming centre from the property on a 24/7 basis without any restriction on trading hours through the deletion of Condition 3 of planning permission Ref. 20/01876/FUL.
- 3.2 It was noted within the application that if the council had reservations regarding 24-hour opening hours, then the applicant would welcome the opportunity to discuss the matter further with officers prior to a determination being made. These discussions and alternative conditions are set out in Section 6 'Engagement with Council' and Section 9 'Alternative Modifications to Condition 3'.

Background to section 42 application

- 3.3 Planning application ref. 20/01876/FUL for the change of use of the property at 335 Sauchiehall Street from a betting office (sui generis) to an adult gaming centre (AGC) was granted planning permission by GCC on 11 December 2020. The applicant has been operating as an adult gaming centre since 05 June 2021.
- 3.4 As part of this original application process, a Noise Assessment was submitted which assessed the operational noise impact of the proposal on residential properties located above the premises on the basis of them being in mainstream residential.
- 3.5 Evidence was also provided within the cover letter which outlined the number of visitors an adult gaming centre would typically generate during the night.
- 3.6 Condition 3 on this planning permission restricts the opening hours. It states:
"The use of the premises shall be restricted to the following days and hours of operation: Monday to Sunday, 08:00 - 24:00".

The Reason for this condition is stated to be *"To protect local residents from exposure to noise and disturbance at unsocial hours."*
- 3.7 The applicant's aspiration at the point of applying for a change of use in application 20/01876/FUL was for 24-hour opening arrangements. However, before discussions with the case officer on this matter were concluded the application was determined favourably but with the restrictive condition in place. The officer's Report of Handling acknowledges the aspiration for a 24-hour opening, but simply states *"the proposed hours of operation (24 hours a day) do not comply with placemaking policy and an alternative set of operating hours has been conditioned."* This comment is attributed to the consideration of the proposals against Local Development Plan policy CDP 1 & Supplementary Guidance SG 1 The Placemaking Principle.
- 3.8 The applicant's other premises, 34 Queen Street, also had a restrictive condition in relation to hours of operation (Permission Ref. 20/02513/FUL). Similar to 335 Sauchiehall Street (Permission Ref. 20/01876/FUL), the case officer noted within the Report of Handling that *"the proposed hours of operation (24 hours a day) do not comply with the policy and an*

alternative set of operating hours has been conditioned". The following condition was placed on the permission:

"03 The use of the premises shall be restricted to the following days and hours of operation: 0800 hours to 2400 hours seven days per week."

The reason for this was again *"To protect local residents from exposure to noise and disturbance at unsocial hours."*

- 3.9 In 2022 Lichfields, on behalf of the applicant, made an application for 34 Queen Street under Section 42 (ref. 22/02084/FUL) to remove Condition 3 which restricted hours of operation between 08:00 – 24:00. The application included additional case studies and evidence in relation to noise and disturbance. The application was found to be acceptable by Glasgow City Council and planning permission was granted without restriction on the hours of operation.
- 3.10 Following the positive determination of application ref. 22/02084/FUL for 34 Queen Street, an application was made for 335 Sauchiehall Street under section 42 of the Town and Country Planning (Scotland) Act 1997 (as Amended) for non-compliance with Condition 3 (opening times) of planning permission ref. 20/01876/FUL. That application reference is 22/02084/FUL and it is this application that is the subject of this review.
- 3.11 No representations were received to the application which was refused under delegated powers on 17 November 2023 on the grounds that it was not in accordance with the Development Plan and contrary to NPF4 policy 14, 23, 26 and 27 and CDP 1, CDP 2 and CDP 4 associated supplementary guidance of the Glasgow City Development Plan (adopted March 2017).
- 3.12 The reasons for refusal are considered in detail later in this Statement.

4.0 The site, Surroundings and Proposed Amendment

The site and surroundings

- 4.1 The application property is a ground-floor unit at 335 Sauchiehall Street, Glasgow. The site's immediate surroundings are characterised by retail, non-retail and residential uses. Sauchiehall Street historically has been one of Glasgow city centre's principal retail and entertainment streets which is now earmarked for strategic regeneration by the council.

The property is a mid-terrace unit the ground floor of which extends to circa 75 sqm GIA. It is surrounded by retail, food and drink uses at the ground floor level, and a nightclub at the basement level the entrance to which is adjacent to the unit, as seen in Figure 1 below.

Figure 1 Image of the existing unit and neighbouring properties



Google Earth Pro

- 4.2 The neighbouring business units include a range of late-night opening hours which are set out below:
- Kings Hot Food Takeaway, 325 Sauchiehall St (3 doors east, 17m away) – 4 am close
 - Firewater Bar, 341 Sauchiehall St (immediately adjacent premises) – 3 am close
 - Bistro Fast Food, 404 Sauchiehall Street (across the street, 25m away) – 4 am close
 - Magical Pizza and Kebabs, 367 Sauchiehall Street (70m west)– 3:30 am close
 - Mango Tropical (Bar/Restaurant/Club), 373 Sauchiehall Street (90m west) - 3 am close
- 4.3 We understand that the upper floors of the site although not dwellinghouses per se are in use as Housing Association emergency accommodation.

Accessibility

- 4.4 Pedestrian access is from Sauchiehall Street to the front of the building. The area is well served by local bus routes which provide regular services around Glasgow. The street is part pedestrianised and forms part of Glasgow's cycle network.
- 4.5 Glasgow's Queen Street Station is located approximately 0.8km to the east which provides services to Edinburgh, Inverness and Falkirk.

Historic environment

- 4.6 The property forms part of a Category B listed building (315-349 Sauchiehall Street, 148, 150 Holland Street) and was built circa 1850. No physical changes are proposed to the building as part of this application, so no further consideration is made to the historic fabric of the building or its neighbours.

Planning History

- 4.7 A review of the available online planning history records reveals a range of relevant applications for changes of use and advertisement consent including:
- This application for consideration by the LRB – Ref. 23/01945/FUL for “*Use of betting office (sui generis) as Adult Gaming Centre (sui generis) and external alterations - Section 42 application for non-compliance with condition 3 of planning permission 20/01876/FUL*” – Refused 17 November 2023
 - Ref. 20/01876/FUL for “*Use of betting office (sui generis) as Adult Gaming Centre (sui generis) and external alterations*” – Granted 14 December 2020
 - Ref. 02/02547/DC for “*Display of fascia sign*” – Granted 25 March 2003
 - Ref. 02/03113/DC for “*Display of signage*” – Granted 29 April 2003
 - Ref. 02/00671/DC for “*Use of shop as betting office*” – Granted 24 June 2002
 - Ref. 00/03216/DC - “*Use of shop and bank as public house (Public House Licence) in basement and restaurant (Restaurant Licence) on ground floor, each use having a separate entrance*” – Granted 01 February 2001
- 4.8 Four applications were granted in the 1990s for internal and external alterations to the unit.

5.0 Engagement with Council

- 5.1 Following the submission of the application, it was confirmed that the representation period closed on 18 September and that no representations had been received.
- 5.2 It was raised on 3 October by the case officer that although it was noted in Lichfields' original submission that there are no residential dwellings immediately adjacent to the unit, there are units present on the upper floors in use by a Housing Association as emergency accommodation. Officers would therefore require more time to give the matter further consideration.
- 5.3 On 09 October officers advised that due to the presence of the emergency accommodation units, the extension of the opening hours was likely to be considered to be inappropriate and officers would move forward to refuse the application. The applicant requested the opportunity to discuss the application prior to determination.
- 5.4 An online meeting was held on 25 October, in attendance were the case officer, a representative from Lichfields and two representatives from the applicant. It was discussed that a condition which allowed for a trial period of the 24-hour opening hours could offer a reasonable alternative solution but would need to be discussed internally between officers.
- 5.5 The case officer advised by email on 07 November that due to the accommodation above a time-limited condition was not considered appropriate, and the application would move forward as a refusal.
- 5.6 In email correspondence (Review Document 3.4) Lichfields reiterated the merits of a trial period condition, that the nature of our client's operation will not give rise to an adverse impact on residential amenity and that a trial condition would afford Glasgow City Council enhanced control, over and above Environmental Health legislation, to curtail activity should the applicant be proved wrong.
- 5.7 The correspondence from Lichfields to the case officer highlighted the late-night uses in the immediate vicinity and outlined a third option that being that condition 3 could be amended so that the opening hours aligned more closely with those neighbouring properties.
- 5.8 In a further response from the council on 13 November (Review Document 3.4) it was outlined that the neighbouring uses have been established for some time and assessed under different guidance. The officer advised that the issues with the night-time economy on Sauchiehall Street are being addressed through strategic objectives for the regeneration of Sauchiehall Street.

6.0 **Planning Policy Context**

6.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires decisions to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

6.2 The current Development Plan for the site comprises the National Planning Framework 4 ((NPF4), 7, the Glasgow City Development Plan (CDP) 2017 and its associated statutory supplementary guidance.

National Planning Framework 4

6.3 NPF4 adopted by Scottish Ministers on 13 February 2023 is a long-term plan for Scotland that sets out where development and infrastructure are needed. The policies relevant to the determination of the planning review are:

- Policy 14 Design, Quality and Place;
- Policy 23 Health and Safety;
- Policy 26 Business and Industry; and
- Policy 27 City, Town, Local and Commercial Centres.

Glasgow City Development Plan

6.4 Glasgow's City Development Plan was adopted in March 2017 and sets out the provides the basis for council's assessment of planning applications. The policies of relevance to the review are:

- CDP 1 The Placemaking Principle;
- CDP 2 Sustainable Spatial Strategy; and
- CDP 4 Network of Centre.

Glasgow City Development Plan Supplementary Guidance

6.5 Glasgow's City Development Plan is supported by a number of documents including supplementary guidance which explains how the CDP policies are to be implemented and are used in the determination of planning applications. The guidance of relevance is:

- SG 1 Part 2 Placemaking; and
- SG 4 Network of Centres.

7.0 Reasons for Review

7.1 This section of the submission sets out the applicant's view that their proposals are entirely supported by the development plan and relevant material considerations and that it was unreasonable of Officers to refuse the application.

7.2 The Decision Notice issued on 17 November 2023 for application Ref 23/01945/FUL sets out the reasons for refusal. Taking each of these in turn we set out below, the appellant's grounds for review.

1. Reason for Refusal

"The proposal was not considered to be in accordance with the Development Plan and there were no material considerations which outweighed the proposal's variance with the Development Plan".

2. Grounds for Review

7.3 The first reason for refusal simply asserts that our client's proposal is not considered to be in accordance with the development plan, yet it fails to specify in what way our client's proposals do not comply with the development plan. The following sections of this submission as well as the supporting evidence provided demonstrate that our client's proposal, contrary to Reason for Refusal 1, is compliant with the Development Plan.

3. Reason for Refusal

"The proposal is contrary to NPF 4 policy 14, 23, 26 and 27 and CDP 1, CDP 2 and CDP 4 associated supplementary guidance of the Glasgow City Development Plan (adopted March 2017) as the proposal would be detrimental to residential amenity of the location due to increased footfall and noise at unsocial hours. Furthermore, the use is not considered to benefit the health and wellbeing of the community".

7.4 This reason for refusal is twofold, breaking down into separate components, these being:

- Impact on residential amenity through noise and footfall at unsocial hours;
- Not being of benefit to the health and well-being of the community.

7.5 The referenced policies of NPF4 and LDP are the officers' justification for reaching this conclusion.

4. Grounds for Review

7.6 Lichfields disagrees with the conclusion that the proposal will result in such impacts and, indeed, find policy support for the approval of the proposed development.

7.7 Set out below is a summary of the requirements of the policies listed within the reason for refusal. As there is a degree of overlap between the themes, justification for the appeal will be provided following the summary:

NPF4 Policy 14 Design, quality and place

- 7.8 Policy 14 seeks to “*encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle*”.
- 7.9 It is not clear from the reasons for refusal which components of NPF4’s Policy 14 are being applied in this case.
- 7.10 Criteria a) of Policy 14 sets out that development proposals should be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.
- 7.11 Design is not really a matter of consideration in this case. The use is already established and all that will change are the operating hours. There is nothing in this application that changes the design of the premises.
- 7.12 That said the proposals will improve the quality of the urban area by providing a positive and active street frontage during the night, with natural surveillance and an active presence for the street 24 hours a day which could deter anti-social behaviour.
- 7.13 Criteria b) of Policy 14 seeks to apply the six qualities of successful places. As the application is for the change in opening hours rather than physical development, many of these do not directly apply, however, one criterion outlines that proposals should support the prioritisation of women’s safety. Improving physical and mental health is also set out in criteria b) however the criteria is geared towards physical development. Notwithstanding, wider responsibility for community wellbeing is explored below.
- 7.14 We consider that the proposals do support women's safety. The night-time urban environment is often a space considered hostile to women. Establishments open 24 hours that do not sell alcohol, nor serve or allow access to customers who have consumed alcohol, contribute to increasing natural passive surveillance on the street. The effect is more likely to be making people more confident that they are safe in this area. Furthermore, Admiral has partnered with WalkSafe (Review Document 6) which is a personal safety app designed to help users stay safe while walking outside alone and share their location with trusted friends and family. WalkSafe features a ‘safe haven’ map that local businesses can sign up for which gives users the chance to seek help if they believe they’re being followed, harassed or threatened. Admiral is training their staff to offer assistance to vulnerable WalkSafe users and the WalkSafe initiative will be advertised in each location's windows. On this basis we find support for this proposal within criteria b) of NPF4 Policy 14.
- 7.15 In relation to mental health, Luxury Leisure is part of the Novamatic UK Group which operates low-stake Adulting Gaming Centres (‘ACGs’) across the UK under the Admiral brand. A copy of their Security and Social Responsibility Statement is set out in Annex 1 of Review Document 3.3. In addition, their commitment to responsible gaming is set out on their website (Review Document 5) which states “*we are dedicated to responsible gaming and safe environments across all of our locations. Our staff are specially trained to notice signs of problem gambling and look to protect the privacy, confidentiality, and well-being of all our customers.*”

As the largest provider of adult gaming centres across the UK, we understand the harm that problem gambling can cause not only to our customers but to their loved ones. This is

why we have partnered with BeGamblingAware to ensure that our venues can remain safe and enjoyable for all”.

- 7.16 Given this commitment to the well-being of their customers, we assert that these premises are a safe place to enjoy gaming and a place where the well-being of users is important. The extension of opening times to 24-hours means that this safe place will be available whenever people want to game. Furthermore, it offers a safe place devoid of alcohol for shift workers to wind down after work perhaps while they wait for infrequent nighttime buses home or to hang out before their shift begins. On this basis we assert that support for these proposals can further be found within criteria b) of NPF4 Policy 14.
- 7.17 If the concern however is for the well-being of residents, we point to the evidence submitted with the submission (Review Document 3.3) where it is clear that noise nuisance is not a feature of this type of facility. On this basis the applicant does not accept that the opening of this facility 24-hours a day will have a negative impact on local residents who already live in a lively nighttime area.
- 7.18 Criteria c) Policy 14 states that proposals that would be detrimental to the amenity of the surrounding area will not be supported. While the case officer has noted concerns about the footfall generated by the 24-hour opening, the applicant wants to highlight that Sauchiehall Street is already a busy street due to the uses on the street as well as the fact the street acts as a strategic thoroughfare within the city centre.
- 7.19 Furthermore, the evidence provided in Review Document 3.3 shows that the levels of visitors through the night are expected to be very low and that the applicants’ other facilities are visited largely by individuals and not groups of people. Associated noise would also be expected to be minimal. Customers are also more likely to be passing trade such as nighttime employees on their way home, rather than new trips being made specifically to visit the premises. The extension of opening hours would therefore not increase footfall but rather temporarily capture small portions of existing footfall within the store for a short period of time.
- 7.20 In the backdrop of Sauchiehall Street, the users of this unit through the nighttime would be so minor as to be immaterial. There is no evidence to suggest it would be detrimental to the amenity of those who live, work or seek entertainment on Sauchiehall Street.
- 7.21 In light of the above, we consider the comments set out in the Report of Handling that *“the proposal is considered to be detrimental to the amenity of the surrounding area and will impact upon the wellbeing of residents within the location”* are unfounded. Indeed, it is the view of the applicant as set out above that the opening of the premises 24-hours a day would add to the safety and security of the street by there being another active use that would discourage loitering and anti-social behaviour after closing times. Rather than reasons for refusal, the applicant finds support for the proposals in NPF4 Policy 14.

NPF4 Policy 23 Health and safety

- 7.22 This policy aims to *“protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing”*. The policy sets out a range of criteria, the only directly relevant element is criteria c) which states that development proposals that are likely to raise unacceptable noise issues will not be supported.

- 7.23 We disagree with the case officer's comment in the Report of Handling when they consider that "*the proposal is likely to increase environmental noise issues due to increased footfall at unsocial hours*".
- 7.24 Evidence has been provided, both in the form of case studies from appeals in other locations within the UK (set out in Review Document 3.3) and FOI requests (Review Document 3.5) that:
- Patronage through the late-night opening hours is modest;
 - The facilities are largely used by individuals and not large noisy groups that might frequent facilities such as nightclubs during these hours; and
 - There have been no noise complaints in relation to the applicant's 24/7 facility at 34 Queen Street, or the existing operations at this site.
- 7.25 As set out in the Noise Assessment, the noise levels that could be expected to arise from the unit opening 24 hours are very modest when compared to the corresponding noise levels from other premises on the street. The applicant is confident in their position that a 24-hour opening will not have a detrimental impact on amenity.
- 7.26 As set out in Sections 6 and 9 the applicant, is open to alternative conditions, either a trial period to demonstrate that the proposals will not give rise to any negative impacts or a modification of condition 3 (opening hours) to bring these in line with neighbouring uses.
- 7.27 There is no evidence that the proposal does not comply with NPF4 Policy 23. If there is any uncertainty around compliance the condition can be suitably amended to provide additional control, and in turn comfort, to the Council that adverse impact can be controlled.

NPF4 Policy 26 Business and industry

- 7.28 This policy aims to "*encourage, promote and facilitate business and industry uses*". It is difficult to see how this policy is directly relevant given that the use is already established in the area. That said we have considered here Criteria e. Which is concerned with "*impact on surrounding residential amenity; sensitive uses and the natural and historic environment*"
- 7.29 As set out in the case officers' Report of Handling, they advised that "*the use of the premises on a 24-hour basis is not considered to be compatible with the adjacent residential uses*".
- 7.30 We disagree with the case officers' interpretation of this policy. The use is already established and does not change as a result of this application. This proposal merely extends the operating times of this already established use. Furthermore, Sauchiehall Street is not a residential area, it is a city centre mixed-use area which has residential and quasi-residential accommodation within it. Primarily, however, it is a principal commercial street within the city centre providing commercial, retail and leisure services, in line with NPF4 Policy 26. A change in opening times of these premises will not alter the character of the place or its compatibility with residential uses.
- 7.31 Due to the city centre location, a degree of background noise is to be expected and this is very much existing. There is recognition that the upper floors of the building are in use by a Housing Association as emergency accommodation and while these are not permanent

residential dwellings, a degree of amenity is expected. This location on Sauchiehall Street with its well-established night-time economy has been deemed acceptable for this temporary residential use.

7.32 The Noise Assessment which accompanied the original application assessed the presence of the units above as traditional residential accommodation and concluded that there would be no significant noise impact from the unit operating on a 24-hour basis.

7.33 We, therefore, conclude that the proposals would not have a detrimental impact on residential amenity, and the other policy parts are not relevant as the use itself is already established. The proposals are therefore not contrary to NPF4 Policy 26.

NPF4 Policy 27 City, town, local and commercial centres

7.34 Policy 17 promotes a town centre first approach. Criteria a, c and g are relevant to the assessment of this application. Criteria a) states that *“development proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses, will be supported”*.

7.35 Criteria c) *“Development proposals for non-retail uses will not be supported if further provision of these services will undermine the character and amenity of the area or the health and wellbeing of communities. These uses include hot food takeaways, betting offices, and high interest money lending premises”*.

7.36 Criteria g) outlines that proposals should take into account residential amenity when the following uses such as a hot food premises, live music venue, amusement arcade/centre, casino or licensed premises (with the exception of hotels, restaurants, cafés or off licences) are within the same building as the residential accommodation.

7.37 The Report of Handling states *“the extension of the hour of operation, and the existing clustering of night-time economy uses would be considered to impact upon the wellbeing of communities by exacerbating issues experienced at this location of Sauchiehall Street during the nighttime, and by raising amenity impact on adjacent residents”*. The applicant disagrees with their assessment for the following reasons.

7.38 In relation to criteria a) rather than causing an issue for amenity as stated in the Report of Handling, the proposals would have a positive impact through job creation (24-hour opening would support 4 new jobs, each at 30hrs per week), increasing passive surveillance, provide a safe space that is alcohol free for users of the city at night and further contribute to the city's leisure offer.

7.39 As set out above, the proposals will contribute to the night-time economy. The proposals to extend the opening hours will add to the vitality and viability of Sauchiehall Street by extending the opening hours of an existing successful business when rental voids are noticeable within this street and town centres UK-wide have been struggling with economic stagnation.

7.40 Regarding criteria c) and g) the impact on residential amenity and wellbeing has been explored within the body of this statement and the supporting evidence. The applicant disagrees that there will be a detrimental impact on either. Furthermore, the applicant does not consider that an extension of the opening hours would materially alter the existing

position sufficiently that it would lead to the undermining of the character/amenity of the area.

- 7.41 The applicant also wishes to highlight in regard to criteria c) that AGCs are different to traditional betting shops and are considered separate Sui generis uses, making this element of NPF4 Policy 27 not applicable. The machines in AGCs offer lower stakes, ranging from 10p to a maximum of £2, there are no fixed odds betting terminals.
- 7.42 The case officer has outlined that there is a cluster of non-retail late-night uses on Sauchiehall Street and that the presence of existing operators alone should not be used as justification to further erode amenity issues. By contrast, the applicant argues that the presence of the existing operators should not prejudice their application which has demonstrated that there is no evidence to suggest that AGCs cause adverse impacts to amenity through 24/7 trading (Evidence in Review Document 3.3, pages 4 -6). Issues with existing businesses are a separate consideration and up to the Environmental Health to action. If there is noise nuisance and anti-social behaviour on Sauchiehall Street as a result of existing uses these are not a result of the applicant's premise and the applicant would like to reiterate, that these issues would not be exacerbated as a result of the proposed changes to the opening hours of their premise. This business does not admit people who are drunk or rowdy and does not serve alcohol.
- 7.43 As set out in Appendix 2 of Review Document 4.3, the majority of visits to AGCs are part of linked trips rather than solely for the AGC. Visitors of this unit, especially during the nighttime hours, will likely be passing through Sauchiehall Street, attending the unit and then moving on. As outlined above, these are more likely to be individuals rather than groups. Unlike neighbouring uses, which serve alcohol and food, there is no reason to linger, especially outside the unit, which might cause an adverse impact on amenity at antisocial hours. Furthermore, the number of people coming and going from the AGC, as evidenced by other units under the control of the applicant, will be immaterial in the context of a nightclub emptying or a takeaway being busy in the early hours.
- 7.44 We therefore conclude that the proposals comply with NPF4 Policy 27 for the reasons outlined above.

Glasgow CDP Policy CD1 The Placemaking Principle

- 7.45 Policy CDP 1 The Placemaking Principle aims to improve the quality of development taking place in Glasgow. As the application is for the change in opening hours rather than physical development, many of these do not directly apply.
- 7.46 Criteria 14 of this policy requires development to ensure that "*new activity does not introduce unacceptable additional noise particularly in, or adjacent to, Noise Management Areas nor have an adverse effect on Quiet Areas*". Lichfields notes that Sauchiehall Street is neither a Noise Management Area nor a Quiet Area or adjacent to them.
- 7.47 The Associated SG 1 Part 2 'Non-Residential Development Affecting Residential Areas' aims to ensure that any non-residential development in proximity to residential development does not harm residential amenity or erode the character of residential neighbourhoods.

- 7.48 Outlined within the Report of Handling was that *“the 24 hour operation of the gaming centre would increase footfall adjacent to resident uses and would harm residential amenity”*.
- 7.49 The applicant disagrees with the council that SG 1 Part 2 ‘Non-Residential Development Affecting Residential Areas’ is directly appropriate for consideration of the application. Sauchiehall Street is not a residential area, it is a mixed-use area which has residential accommodation and a primary commercial street within the city centre. Due to its city centre location, a degree of background noise is to be expected.
- 7.50 Notwithstanding, the applicant stresses that, as per the evidence and case studies provided within this submission, a significant increase in nighttime patrons is not anticipated. It has been accepted consistently elsewhere in the UK that AGCs do not generate adverse impacts to amenity through 24/7 trading. Furthermore, within a Glasgow context, the operation of the 34 Queen Street facility on a 24-hour basis has not given rise to complaints.

Glasgow CDP Policy CD2 Sustainable Strategy

- 7.51 The policy outlines that the Council will continue to focus on the regeneration and redevelopment of the existing urban area to create a sustainable City. Criteria 1, 2, 3 and 5 are relevant to the proposals.
- 7.52 Criteria 1 outlines that support will be given to new proposals which accord with the National Planning Framework and Glasgow and the Clyde Valley Strategic Development Plan’s Spatial Development Strategy.
- 7.53 Criteria 2 outlines that support will be given for proposals which meet the requirements of relevant Spatial Supplementary Guidance.
- 7.54 Criteria 3 looks to protect and promote the City Centre’s diverse functions and role as the sustainable regional centre of the West of Scotland.
- 7.55 Criteria 5 states that there will be support for proposals which *“protect and reinforce town centres as the preferred locations for uses which generate significant footfall, including retail and commercial leisure uses, offices, community and cultural facilities”*.
- 7.56 The relevant Supplementary Guidance, the City Centre Strategic Development Framework has strategic ambitions for the improvement of the city centre which includes re-populating the centre and improving liveability to ensure sustainable neighbourhoods that promote health, well-being and social cohesion.
- 7.57 In the case officers’ analysis of this, it was stated in the Report of Handling that *“the liveability of Sauchiehall Street would not be improved by the addition of a 24-hour gaming centre. It would not promote health, wellbeing or social cohesion and would impact upon vulnerable users of the existing accommodation above”*.
- 7.58 We disagree with the key points drawn from this policy. We do not consider that this policy is fundamentally about the *“liability of Sauchiehall Street”* and the promotion of *“health, wellbeing or social cohesion”*. Rather we would draw attention to criteria 3 *“Protect & promote the City Centre’s diverse functions and role as the sustainable regional centre of the West of Scotland”* and criteria 5 *“Protect and reinforce town centres as the preferred locations for uses which generate significant footfall, including retail and commercial*

leisure uses, offices, community and cultural facilities and, where appropriate, other public buildings such as libraries, and education and healthcare facilities”

7.59 We will of course address the officer’s concerns in respect of this policy even if we think they are not well founded in it. In the preceding section, we have set out at length why do not accept that the proposal to extend the opening times of the AGC will impact residential amenity in the context of its location on Sauchiehall Street so we will not repeat that. But, we will address directly the point made about vulnerability. We also disagree with the assertion that the extended opening hours of an existing business would impact vulnerable users of the accommodation above. A decision not linked to this application was made that Sauchiehall Street was a suitable location for such residential accommodation. A location with a significant nighttime economy and noise as a result. The Noise Assessment submitted with this application demonstrates that noise will not impact vulnerable users so this should be discounted as a concern. If the concern is about access to gambling and gaming 24-hours a day this should also be discounted as such is already available via a smart phone and there is a 24-hour licenced casino 225m (3-minute walk) west of the accommodation. The AGC offers low-stakes gaming only and so in itself does not provide access to gambling and gaming where it does not already exist and the access it does provide is within a controlled environment.

7.60 As highlighted above we find support for the development in Criteria 3 and 5 of Policy CD2 Sustainable Strategy as AGCs are a commercial leisure/town centre use and a use that adds to the city centres diversity function.

Glasgow CDP Policy CD 4 Network of Centres

7.61 Policy CD 4 aims to “*ensure that all of Glasgow’s residents and visitors have good access to a network of centres which are vibrant, multi-functional and sustainable destinations providing a range of goods and services*”. It sets out that the city centre is the primary location for retail, office, commercial leisure, tourism and civic uses.

7.62 This offers clear support for proposals such as the applicants as the business contributes to the vibrancy of the city centre and the range of services available.

7.63 The relevant Supplementary Guidance, SG 4 Network of Centres applies and confirms that across the City Centre, proposals for entertainment uses must not result in a detrimental effect on the amenity of residents through the effects of increased noise and activity. It further states that the hours of operation will be limited to between 08:00 hours and 24:00 hours, depending on local circumstances. Uses, such as public houses, night clubs and casinos, wishing to operate beyond 24:00 hours will be assessed on their individual merits and location within the City Centre (Lichfields emphasis)

7.64 The council outlined that “*the use would be considered to be detrimental to the amenity of residents through increased noise and footfall. The use is in close proximity to residential accommodation and immediately below Housing Association accommodation. The proposal does not meet the policy requirements*”.

7.65 The council provided further comments which are set out below:

- The 24-hour AGC may continue to attract footfall when the surrounding uses have ceased operating;

- There is a cluster of non-retail late-night uses which have the potential to adversely impact upon the well-being of the existing community;
- There are issues generated by the night-time economy in the area and the presence of existing late-night uses should not be used as justification to further erode amenity issues;
- The employment opportunities created by the proposals are not considered to outweigh the potential harm raised to the amenity levels of the surrounding area; and
- The Noise Assessment considered the operational noise of the 24-hour opening but not the impact of the increased footfall 24 hours on the public footway immediately below the emergency accommodation.

7.66 The applicant disagrees with the assessment the council has provided and argues that due regard has not been given to all of the evidence provided. Evidence has been provided, both in the form of case studies from appeals in other locations within the UK (set out in Review Document 3.3) and FOI requests (Review Document 3.5) that:

- Patronage through the late-night opening hours would be modest;
- Similar facilities are largely used by individuals and not large noisy groups that might frequent facilities such as nightclubs during these hours; and
- There have been no noise complaints in relation to the applicant's 24/7 facility at 34 Queen Street in the City, nor the existing operations at this site.

7.67 The Noise Assessment considered references noise levels, noise break-out via the shopfront, internal sound transmission and external plant noise. Whilst it does not specifically consider 24-hour footfall, as highlighted in the report, Sauchiehall Street is busy during the late evening and night, with numerous restaurants and licences premises in the area including a nightclub in the basement space directly below the unit.

7.68 It is recognised that the condition restricting the open hours comes from a desire to mitigate potential noise and disturbance associated with the comings and goings of people to and from the premises throughout the night, at unsociable hours when background noise levels would in normal circumstances elsewhere in the city be particularly low.

7.69 However, the background noise levels in this city centre location would not be as low as within a traditional residential area and, as evidenced, it is generally individuals, single-digit patronage through the evening hours and these low numbers are immaterial in the context of the patronage due to the other late-night outlets.

7.70 Lichfields concludes that the officers' concerns, while well-intentioned and material, are in the face of the evidence unfounded in relation to this unit and that the proposals will not have a detrimental impact in relation to noise on any residential properties nearby nor housing association accommodation nor further erode amenity in the area.

7.71 The proposals find support in the development plan policy outlined by the case officer for more diverse uses on Sauchiehall Street as it is a late-night use without alcohol or hot food.

7.72 As set out in Sections 4 and 9, the applicant is open to alternative conditions, either a trial period to demonstrate that the proposals will not give rise to any negative impacts or a modification of condition 3 (opening hours) to bring these in line with neighbouring uses.

A modification of the hours, in line with neighbouring businesses, would address the case officer's concerns that patrons will remain in the area after the other businesses have closed for the evening.

7.73 The applicant does not consider that the evidence underpinning the proposed modification to the opening hours was given due consideration as part of the application process.

7.74 We note the case officers' comments in the report of handling concerning the other late-night businesses in the area ceasing operation in future and the potential of this use retaining late-night opening hours in their absence.

7.75 Firstly, there can be no prediction on when and if other businesses close. Secondly, even if those operators do cease trading, their existing use would remain lawful, allowing future operators to continue within the same limits. Speculation on the future use of those premises in this regard is not material to the determination of this application and should not be a determining factor in the decision making on this application.

8.0 Alternative Modifications to Condition 3

- 8.1 As set out in Section 6 'Engagement with Council', the applicant discussed potential alternative conditions. This is explored in further detail below.

Preferred Option

- 8.2 The applicant's preferred option would be to approve the section 42 application to delete condition 3 as attached to ref. 20/01876/FUL. This would enable the unit to trade on a 24-hour basis. As evidenced above, we consider this to be acceptable in accordance with national and local planning policy.

Alternative Wording for Condition 3

- 8.3 Should the LRB be minded to seek further control of the potential, the applicant is agreeable to the modification of condition 3. Two potential modifications are as follows.
- 8.4 Condition 3 could be amended to approve 24-hour opening on a trial period for 1 year, following which a further application for s.42 would require to be made in order to allow for the continuation of these opening hours. There could be a clause whereby GCC could end the trial period as a result of environmental health or police complaints of activity at the unit.
- 8.5 Alternatively, there could be an amendment to condition 3 to extend the opening hours to more closely align with neighbouring uses. The majority of these opening hours are either 3 am or 4 am. Should this extension be successful (e.g. without complaint), then the applicant may in due course seek a further extension.

9.0 Conclusions

- 9.1 This Statement of Appeal has been prepared in response to the refusal issued by Glasgow City Council for application ref. 23/01945/FUL. It outlines that 335 Sauchiehall Street is an existing AGC business within the Glasgow city centre which has been operating since 05 June 2021 without noise complaint.
- 9.2 The applicant sought the ability to operate its business from the property on a 24/7 basis without any restriction on trading hours and a deletion of Condition 3 (opening hours - 08:00 - 24:00). The applicant has engaged proactively with the Council and outlined their flexibility to alternative conditions. A Section 42 application, if granted, represents a new “standalone” permission allowing for conditions to be modified.
- 9.3 The applicant has provided evidence that demonstrates that: the applicant's other premises, 34 Queen Street, operates on a 24-hour basis without noise complaints; and a Noise Assessment which considers the Housing Association units above 335 Sauchiehall Street and concludes that the unit can operate on a 24-hour basis without detrimental impact on them.
- 9.4 The applicant respectfully requests that the local review panel grant consent for the proposed application. Either as per the original request for the deletion of Condition 3 attached to ref. 20/01876/FUL or proceed with agreement on an alternative condition. Either a modification to Condition 3 which allows for 24-hour opening on a trial basis or extended opening hours in line with neighbouring businesses.

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