

Reference: 06/21/0487/CU

Parish: Gorleston
Officer: Chris Green
Expiry Date: 30-07-21

Applicant: Great Yarmouth Borough Council

Proposal: Proposed change of use from retail to adult gaming centre on ground floor only

Site: 138A High Street, Gorleston.

REPORT

1. Background

- 1.1 This application is brought before Development Control Committee as many objections and letters of support have been received

2. Site and Context

- 2.1 The site is situated within the Gorleston Development boundary.
- 2.2 The premises have an existing retail use under Class E and is within the southern fringe of the Gorleston Town Centre Primary Shopping Area, adjacent to the Secondary shopping area which extends south of the intervening crossroad with Church Road. The site is outside the Conservation Area but the opposite side of the street is within it, so changes have the potential to impact the setting of the heritage asset.
- 2.3 The premises are at the time of writing in use for retail purposes: 'Pop up Vintage' is the current operator (which suggests a short-term use for second-hand goods, nevertheless the shop signage and appearance is tidy) but the applicant has said the site used to be operated by New Look and apparently stood empty for more than 12 months.
- 2.4 The designated boundary of the primary and secondary retail area can be demonstrated to the Committee during the Officer's presentation. There are three existing adult gaming/bookmakers' units within the town centre:
- Coral (betting) – 60m south in the secondary retail frontage
 - BetFred (betting) – 160m north in the secondary retail frontage
 - Magic City (adult gaming) – 155m north in the primary retail frontage

- 2.5** Under gambling licence law, the nature of the gaming machines on a premises define its type under that law.

Adult gaming centres may offer a mix of “B3, B4, C and D”-licence type gaming machines. This form of centre differs from Licensed family entertainment centres (FECs) and Unlicensed family entertainment centres (which can only offer ‘C and D category’ machines).

- 2.6** An adult gaming machine is also characterised by the charge and the stakes available. For example the definition of Category B gaming machines includes:
- A sub-category B4 machine - the maximum charge for use is no more than £1; the maximum prize value is no more than £250.
 - A machine is a sub-category B3 machine if the maximum charge for use is no more than £1; the maximum prize value is no more than £500
 - A machine is a Category C machine if the maximum charge for use is no more than 50 pence; the maximum prize value is no more than £35

Due to the nature of the machines available in an Adult Gaming Centre, no one under the age of 18 years is allowed to enter an adult gaming centre.

In contrast, the definition of Category D gaming machines (for family entertainment) includes:

- Where a machine is a non-money prize machine, it is a Category D machine if the maximum charge for use is no more than 30 pence; and the maximum prize value is no more than £8.
 - Where a machine is a money-prize machine, it is a Category D machine if the maximum charge for use is no more than 10 pence; and the maximum prize value is no more than £5.
- 2.7** It should be noted however that all premises containing Gambling machines or gaming facilities are regarded as being ‘Sui Generis’ status under planning law, which means they do not fit into any use class. Sui Generis, is not a use class in itself, and there is no permitted change between different Sui Generis uses, however there would have to be materiality to a change for it to be considered as requiring planning permission.

3. Proposal

- 3.1** The proposal is for an Adult Gaming Centre within the primary shopping street in Gorleston as identified in the Proposals Map within the 2015 Core Strategy. The applicant has requested opening hours of 0800 – 22:00 every day.
- 3.2** The shopfront would also be redesigned to be set back by 300mm to allow an electrical switch cabinet to be installed at the front of the shop.
- 3.3** Separate planning permission will be required for the alterations to the site’s shop frontage. This is the subject of current application 06/21/0551/F which is

pending consideration, and is described as: "Proposed new shop front to match existing and glazed doorway to sit flush with front shop windows" and can be seen in plan form in the currently-submitted plans.

3.4 Accompanying this change of use proposal are the following documents:

- Planning Application Forms and Certificates of Ownership;
- Application drawings as detailed on the Drawing Register;
- Design and Access Statement;
- Planning Statement (including Statement of Community Involvement).

4. Relevant Planning History

06/12/0604/A Advert consent for fascia and projecting signs.

06/13/0005/A Advert consent for illuminated signs

5. Consultations:-

All consultation responses received are available online or at the Town Hall during opening hours

5.1

49 Neighbour and public objections received: (summarised)

- Gorleston High Street is a busy, thriving shopping centre with independent shops, cafes and restaurants.
- Will be detrimental to local businesses and out of character. Raise the tone of the area, do not lower it.
- Inappropriate next to a card shop
- Will harm surrounding business by discouraging use.
- This type of amusement will encourage anti-social behaviour and crime to fund gambling addiction and litter.
- There is an 'adult gaming' place up the road and plenty of amusements of this type in Great Yarmouth.
- The community of Gorleston is older people or school/college students so wouldn't get business.
- This may encourage younger people to gambling addiction.
- Betting jobs are not good employment.

- There are four existing gambling sites: Magic City (an AGC) a bingo hall and two bookmakers. The viability of some of these sites will be impacted by the competition.
- We need a shoe shop or a clothes shop or an independent food and drink shop, butcher shops, greengrocers, a children's toy shop. Pedestrianise the high street, make it 'greener'.
- Coronavirus has wrecked peoples' lively hoods leading many to rely on food banks. Gambling creates more debt.
- There are between 340,000 and 1.4 million adult gambling addicts in the UK 1 in 4 gamblers are experiencing serious gambling harms Over 60,000 young people aged 11-16 are addicted to gambling.
- Young people locally are more at risk of developing addiction.
- UK and international research have found that 4-11% of suicides are related to gambling.
- Gambling disorder was classified as equivalent to drug and alcohol addictions.
- Most people think gambling is unfair and cannot be trusted.
- One writer was a gambler who states that controls imposed to try to help people like him do not work.

31 letters of Support received:

- It's the younger generation that need some where safe to go.
- A letter has been received from a planning consultant objecting on behalf of the operator of another licenced betting site in the locality. This is that:
 - it is disingenuous to use descriptions in a planning document that relate to the Gaming Act definitions where the use for gaming is not so defined by the Planning Acts, meaning that further change within the sui generis planning use description could occur without further planning application; and that,
 - policy TR9 has not been mentioned in the applicants planning statement, but directly discourages gambling uses outside the areas described within Yarmouth.
 - The applicant argues that the store has been empty for 12 months but provides no marketing information. Changes within class E are broad in nature, so other possible within that range of uses should be discounted before this is permitted.

- Another letter has been submitted by the applicant stating that the moral objections made are not material planning reasons for refusal. That the proposal is for an Adult Gaming Centre. The agent also states that objection from one party is about commercial competition and now withdrawn, and that the number of gaming establishments is not material.

Consultations – External

5.2 Norfolk County Council – Local Highways Authority – No objection.

Consultation - Internal to GYBC

5.3 Environmental Health – (contaminated land, noise, air quality)

No objections or comments:

5.4 Conservation Officers’ comments are within the report body.

5.5 Strategic Planning Officers’ comments are within the report body.

6. Assessment of Planning Considerations:

6.1 Section 38(8) of the Town and Country Planning Act 1990 (as amended) and paragraph 47 of the National Planning Policy Framework state that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Relevant Policies:

Borough Local Plan 2001:

- TR9 – Amusement arcades

Core Strategy 2013:

- CS7 – Strengthening our centres
- CS9 - Residential Amenity
- CS10- Safeguarding local heritage assets

Other material considerations:

National Planning Policy Framework

Emerging policies of the draft Local Plan Part 2 (Final Draft)

The following draft policy should be noted as some degree of weight can be attributed to them in the planning assessment, given the stage of their preparation:

- R2 – Protected shopping frontages
- R3 - Gorleston Town Centre Area

Principle of development

Local Plan 2001

- 6.2** Retained 2001 policy TR9 only permits amusement arcades in prime holiday attraction sites and complexes. This is a policy of some age now, and the applicant states that this is not an amusement arcade.
- 6.3** Officers consider that an Adult Gaming Centre (AGC) is not the same type or character of use as an amusement arcade, which is more orientated to family entertainment (see paragraphs 2.5-2.6 above).
- 6.4** As a Sui Generis use, any permission can be required to operate only as a AGC, and if this site were to become an amusement arcade there would likely be sufficient material change in character and intensity of use to require a further planning permission, where the impact of an 'amusement arcade' could be considered against policy.
- 6.5** 2001 Local Plan Policy SHP4 originally sought to control changes of use from retail A1 to other uses in A2 or A3 uses, with a focus on appearance of the centre, amenity, vitality and viability, and retain functionality. However, this policy has now fallen out-of-step with national planning policy since the Use Classes Order was revised in April 2021, which consolidated various uses (including former classes A1, A2 and A3) into the new Class E. Although Policy SHP4 is no longer considered relevant, the emerging Local Plan Part 2 does add detail to town centre considerations.

Core Strategy (2015)

- 6.6** Policy CS7 seeks to focus retail investment towards the main town centres and safeguarding the function of the Primary Shopping Area. The policy does also seek to improve the vitality and viability of the centre, enhance the appearance, diversity of uses and re-use of vacant buildings.
- 6.7** The proposed use is not a retail use, but national planning policy has adopted a wide definition of acceptable town centre uses. The latest retail survey (October 2020) demonstrates that there is only a handful of vacant units within the town centre. The building is not currently vacant so the proposal will not serve to put it to use, but it will technically reduce the retail offer within the Town Centre / Primary Shopping Area.

Emerging Local Plan Part 2

- 6.8** The emerging Local Plan Part 2 is subject to consultation on Main Modifications following examination hearing sessions.

6.9 The policies within the draft Local Plan Part 2 have therefore also been considered consistent with the National Planning Policy Framework and should therefore be afforded substantial weight in decision-making.

6.10 The proposed site is located within Policy R2: Protected shopping frontages.

This policy supports retail uses maintaining an active ground floor and only supports changes to non-class E uses where:

- a) their primary function is to provide services and/or sales to visiting members of the public; and*
- b) they provide an active ground floor frontage (e.g. window displays, entrances and views of internal activity; and*
- c) they do not undermine the vitality and viability of the town centre.*

The proposed use does provide a form of service to visiting members of the public, so can be said to address criteria (a). To be compliant with part (b), the unit should maintain an active frontage (which can be required by planning condition in the event of an approval).

In terms of the vitality and viability of the centre (part (c)), consideration should be given not only to the recent lengthy period of vacancy of the unit, but also the surrounding uses and any potential to cumulatively impact on the function of the centre.

It is considered the proposed use should not be over-concentrated or clustered in a retail centre. There may be three other adult gaming/bookmakers units within the town centre but the other various retail premises in the centre provide for other day to day needs of residents. It is considered that the proposal, for an additional adult gaming/gambling type use, within this location would not undermine the diversity of uses, or the function or vitality of the town centre.

The gambling use proposed in combination with the other existing gambling uses are considered not to adversely affect the character of the town centre because they are dispersed around the town centre and are shared between the primary and secondary retail frontages.

6.11 Emergent Policy R3: Gorleston Town Centre Area

This policy lists former use class policies now grouped in Class E as being able to be permitted within the Gorleston Town Centre when they do not undermine the vitality or viability of Great Yarmouth's Town Centre. In this regard the policy does not inform the determination of this case.

The policy then goes on to restate considerations in policy R2 above.

Residential amenity

- 6.12** Policy CS9 - "Encouraging well-designed, distinctive places" also considers matters of amenity both for existing and future residents. In environmental terms noise is less likely to be a feature of this form of development and there appear to be few residences over the shops in the vicinity. Opening times are cited as 08.00 to 22.00 on all days, this will be quite late in the evening but not unduly so given local pubs and other uses can operate to the same time or later, so amenity is not considered to be compromised and these opening hours will serve to improve the early evening economy.

Highways and parking

- 6.13** County Highways make no objection, the impact of the proposed use over and above the current authorised use is of no measurable difference.

Historic Environment

- 6.14** There is no advertisement application and the only change to the exterior is the moving of the shop frontage further back by 300mm; Officers are satisfied that there is no harm in terms of impact on the setting of the designated heritage asset, the Conservation Area on the opposite side of the street, and so is considered not to conflict with policy CS10.

Economic benefits

- 6.15** Commercial competition is not a planning consideration, however, if other employment is prejudiced by the impact of development that might be a consideration. The proposal generates 4 full time and 2 part time jobs. There is no evidence that if approved the proposal would lead to the closure of other Gaming sites or that more jobs would be lost or gained, as such some weight can be given to employment creation.
- 6.16** There are other gambling opportunities in the High Street and wider Gorleston retail area but not at a dominant level. While Great Yarmouth also has entertainment of this type, that centre is not a part of the Gorleston retail area and so does not readily inform decision making on applications within the Gorleston retail area.
- 6.17** The applicant's agent states that proliferation of gambling opportunity is not material to planning consideration, but this is considered not to be correct because while the government has made many commercial changes to permitted development it has actually further restricted gambling proliferation by defining some types (casinos, betting shops and bingo halls) as Sui Generis activities, in a way that it had not done before (where casinos alone were Sui Generis), it has also given wide rights to convert from Gambling activity to other commercial and residential uses.
- 6.18** The applicant's agent also makes the case that this is a change to an Adult Gaming Centre and no other form of gambling use. As already clarified all

gambling uses in planning terms are regarded as without use classification. The controls offered by the Licencing Acts would not protect the planning purpose, because the licensing regime examines Crime and Disorder and other aspects, but not impact on amenity or traffic generation, or loss of retail opportunity which are material planning considerations.

- 6.19** Many objectors were concerned about the adverse societal effects of gambling, and while those making planning decisions may share reservations, it is for the Licensing system to control this aspect.

Local Finance Considerations:

- 6.20** Under Section 70(2) of the Town and Country Planning Act 1990 the Council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are defined as a government grant such as new homes bonus, or the Community Infrastructure Levy (which is not applicable to the Borough of Great Yarmouth). Whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority, for example.

7. The Planning Balance

- 7.1** It is considered that given current empty shops in the identified primary shopping area, the short-term nature of the current use and the ability to secure active frontage by a pre-use condition, that there is no harm to the diversity and vitality of the shopping centre, caused by recommending approval.
- 7.2** Some employment is created and there is no compelling evidence that employment will be lost.
- 7.3** The setting of the conservation area is considered not to be harmed as little change is proposed to the frontage.
- 7.4** Matters relating to the adverse societal impact of gambling can only carry very limited material planning weight, if any.
- 7.5** It is considered that further changes to the type of gambling establishment predicted can be controlled through the concept of materiality of change and therefore the retained policy TR9 is not breached.

8. Conclusion

- 8.1** The application is recommended for approval with conditions.

9. RECOMMENDATION: -

Approve subject to conditions for:

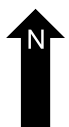
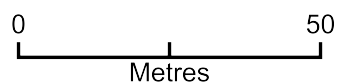
- Timing
- Compliance
- The use shall be for an Adult Gaming Centre only, for avoidance of doubt.
- Limitation of operating hours to those requested.
- Further agreement of the means by which an active shop type display can be provide to the frontage.

And any other conditions or notes considered appropriate by the Development Management Manager.

Appendices:

- Appendix 1 Location plan
- Appendix 2 Existing and Proposed Floor Plans

138A High Street, Gorleston



Plan Produced for: M.J.S. Amusements Ltd

Date Produced: 03 Jun 2021

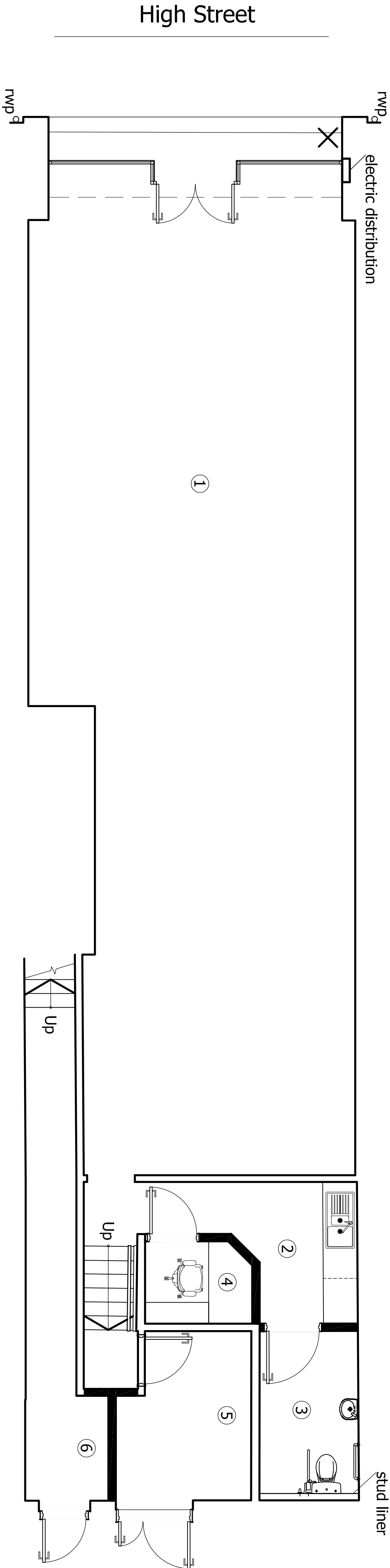
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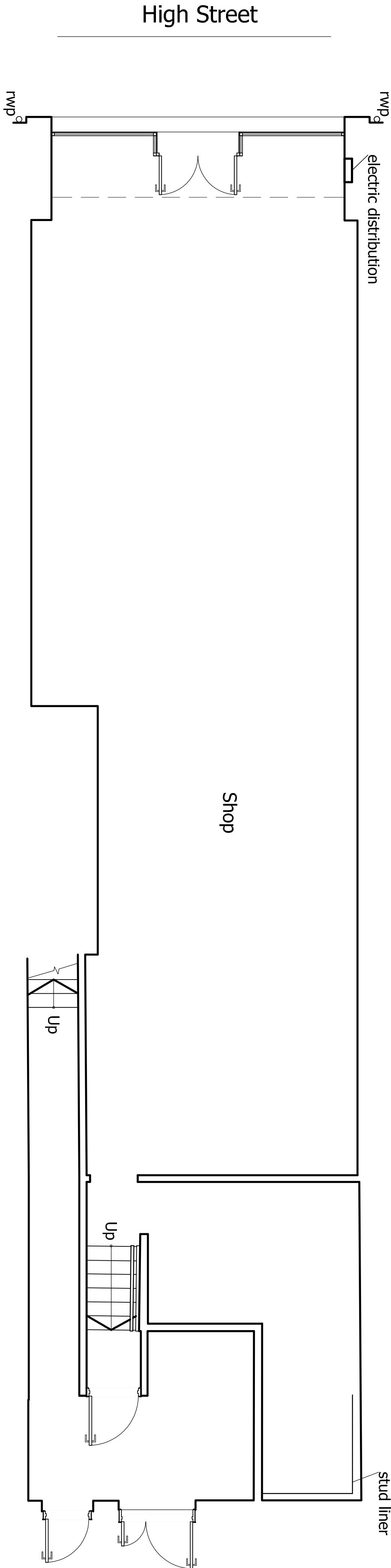
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Proposed Ground Floor



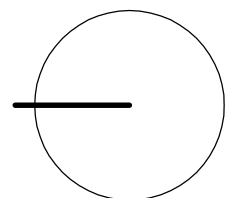
Existing Ground Floor

Key

- new fire rated partition to regulatory compliance
- new electric main to first floor

- Adult Gaming Centre
- Kitchen
- Disabled Toilet
- Accounting Office
- Shop Bin store
- Residential Bin store

0m 2m 4m



A 25/05/21 Agent comments incorporated

HP

rev: date: description:

by:

location:
Former New-Look Shop
High Street, Gorleston, NR31 6QX

title:

Existing and Proposed Layouts for
MJS Amusements Ltd.

☒ preliminary

☐ tender

☐ const.

date: 24/05/2021

drawn: HP

approved: CP

scale @ A1: 1:50 scale @ A3:1:100

Level: Ground

Room:

drawing number:
1413.200

rev: A

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