

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B 7 JULY 2020
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 7 JULY 2020 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Nagina Kauser in the Chair;

Councillors Nicky Brennan and Adam Higgs.

ALSO PRESENT

Shaid Yasser – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

NOTICE OF RECORDING/WEBCAST

1/070720 The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/070720 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/070720 No apologies were submitted.

MINUTES

4/070720 The minutes of meeting held on 2 June 2020 were circulated and confirmed and signed by the Chair.

GAMBLING ACT 2005 PREMISES LICENCE – GRANT - MERKUR SLOTS, 220 HIGH STREET, ERDINGTON, BIRMINGHAM, B23 6SJ.

Report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

On Behalf of the Applicant

Philip Kolvin – QC
Richard Bradley – Poppleston Allen.
Amanda Kieran – Head of Compliance, Cashino Gaming Limited.
Andy Tipple – Head of Product, Cashino Gaming Limited.
Gill Clulow

Those Making Representations

Paddy Whur – Barrister, representing objectors.
Abbass Karimjee – Objector

* * *

The Chairman introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

At which stage Paddy Whur asked who the email was from at page 183 within the report. Shaid Yasser, Licensing Officer confirmed that the email was submitted as additional information from the objector at Appendix 8 within the report.

The Chairman then explained the hearing procedure prior to inviting the Licensing Officer, Shaid Yasser to outline the report.

Afterwards, the Chairman invited the applicant to make their submission. At which stage Philip Kolvin QC, made the following points on behalf of the applicant: -

- a) That his client had submitted a lot of information and subsequently no objection was received by WMP, who were the anti-social behaviour and crime lead. Additionally, no objections had been received from any other responsible authorities, including the Child Protection Authority, Licensing Authority and the Gambling Commission. There were also no objections from local ward Councillors.

- b) If the concerns had been significant, one would have expected to have seen objections from at least one of the above.
- c) That the applicant was one of the most experienced and largest gaming companies in the United Kingdom. Suitability was not an issue.
- d) That his client operated to a standard of excellence and had never had a review of any of the 160 UK licensed premises, demonstrating that they promoted the licensing objectives.
- e) The client also planned operations well, trained staff and responded to potential issues identified, in the appropriate way. They had good working relationships with responsible authorities (RA) and customers in order to protect the licensing objectives.
- f) They also subjected themselves to audits from field-based audit and compliance officers to ensure everything was up to the mark.
- g) The main objection seemed to be that the premises would generate crime and disorder – however, his client's premises did not generate crime and disorder and incidents at their premises were extremely rare.
- h) The demographic was different to that of a betting office. This premises would attract mainly women who would enjoy drinking tea and eating snacks.
- i) Staff would walk the premises and engage with customers, which would be a good security measure.
- j) An ASB objection was made to the planning application however, his client had pre-consulted with police as they did for this application and the police's view was that there was nothing to be concerned about, the view was also shared by the planning officer.
- k) Staff were trained actively to monitor the exterior of the premises and had reporting lines with the police. The arrangement would be that they would join 'Bet Watch' and 'Pub Watch' so they were able to understand local issues and respond accordingly.
- l) That licensed Bingo premises were entitled to keep machines running for 24 hours a day, as well as serve alcohol and admit children. Yet his client did none of those things and would close the premises at midnight, not allow children under the age of 18 in the premises and would not serve alcohol. Therefore, the objection in relation to children could 'simply fall away'.
- m) The City Council's Policy made it clear that child protection objective was about stopping children gambling. However, there was no risk of children gambling in the premises.
- n) That SIA door staff were not used in other gaming premises in Erdington. However, if his client opened and felt there was a need to use them, then he would provide them.

- o) The company was professional and complaint and responded appropriately to risk.
- p) The City Council's Policy did not contain restrictions on where these types of premises were located.
- q) On page 54 there was a substantial list of things the applicant may provide in order to promote the licensing objectives.
- r) That his client was already subject to extensive legal obligations as part of the operator's licence.
- s) No responsible authority had sought any further conditions and his client had offered a list at page 54.
- t) They had submitted a competent set of measures to promote the Licensing Objectives.
- u) There was no evidence that the premises would be a source of crime and disorder and the other matters highlighted from the objections were simply not relevant as a matter of law.
- v) That much of the objections had been dealt with by the Planning Authority.
- w) The objections represented by Mr Whur suffered from a number of misconceptions and assumed that the premises would be trading for 24 hours a day, which he confirmed would not be the case.
- x) There was also photographs referring to thin style machines – but they would not be used.
- y) That bingo would not be the primary activity at the premises – that was also wrong, and the primary activity test had been abolished.
- z) That 'tablets' would be used for accessing the game rather than marking numbers on cards.
- aa) There wouldn't be any planned single staffing after 8pm. Staffing would also be risk assessed.
- bb) That his client would liaise with the Licensing Officers if there were concerns about staffing.
- cc) That the concerns about the lighting and style of the premises attracting children, or vulnerable persons would not be necessary as the inside of the premises would not be seen from the outside and the premises would be kitted out as a high-end Bingo premises.
- dd) The risk assessment was a very dense document and covered all the points that the Council Policy requested.

- ee) There had been a refusal for a licence by the operator in Blackpool, however there were also 160 premises granted by the same operator and therefore it was not very relevant.
- ff) That the Council Policy made it clear that there had to be evidence to support the assertion that the premises would impact the Licensing Objectives.
- gg) The application should be granted.

Mr Abbas Karimjee made the following points: -

- a) That Cllr Robert Alden did release an objection at the planning stage.
- b) That the Birmingham Mail released an article on 11 June 2020 which confirmed the objection submitted by Cllr Alden and also further objections from local residents. Therefore, there was a huge body of people who were objecting to the application.
- c) Public Health England raised objections to licensing application and there should be a process where local area profiles are created. In Erdington there was already a huge number of betting and gaming premises and that drained money away from the economy.
- d) That people who submitted these types of applications were relying on bad decision making, especially in deprived areas.
- e) The application would provide some jobs, but the premises would be detracting money away from other places.
- f) The customer always lost in these types of venues.
- g) Newhall Council successfully refused an application on the basis that there were already enough gaming premises in the area.
- h) That customers would bring their own alcohol.
- i) The police did make an objection
- j) That the local PC was quoted as opposing the application in the Birmingham Mail. Therefore, to assume the police were fully supportive was a deviation from the truth.
- k) Erdington had high anti-social behaviour and an excess of homeless people within the area. The application was preying on those individuals.
- l) That Erdington was an area he felt deeply connected to and wanted to work hard. He was seeking BCC's support to help the police deal with the ASB and no one needed to be playing Bingo until 2330 hours.

- m) That his wife didn't feel safe walking down the street and he didn't want anymore people attracted to the High Street late at night.
- n) The situation was unsafe.

The Chair reminded Mr Karimjee that Licensing and Planning were separate regimes and that Cllr Alden had not made an objection to the Licensing application.

Mr Whur, representing some of the objectors, made the following points: -

- a) There were no issues with the operating standards or the current track record. However, this was a new style of operation for the company.
- b) The licence application submitted in Blackpool was refused and he reminded the Committee that they had discretion to refuse the application even without objections from responsible authorities.
- c) That the Committee should consider 'Lara one' and 'Lara two' – Local Area Risk Assessments.
- d) There should be concerns about this style of premises in the proposed physical location.
- e) The first 'Lara' was a weak local risk assessment.
- f) When considering 'Lara two' it was an obvious attempt to tighten up 'Lara' to make a key document for the hearing. There was still mention of the aspiration being to open for 24 hours.
- g) The concern about using tablets is that other games could then be offered.
- h) There were already a significant number of gambling premises and porn brokers in the area, in addition to school and health centres.
- i) He had no issues with Philip Kolvin's submissions or the premises previous track record.
- j) He asked the Committee to consider the style and location of the premises.
- k) Erdington was the third highest area for deprivation within the city.
- l) The initial application submitted to Planning was 24 hours, the staff advertisements were 24 hours, and the 'Lara' stated 24 hours.
- m) The condition at 12 wouldn't necessarily stop the premises from opening beyond midnight. That should be amended.
- n) That single manning of the premises would be difficult due to the layout. There were obvious blind spots and the Committee should look at the plan and consider the layout.

- o) That these types of premises were targeted by criminals and another premises within the local vicinity had been subject to a robbery.
- p) The Committee should assess whether it would be appropriate to grant the licence or exercise their discretion to refuse the licence due to the unsuitable location.

In summing up, Mr Karimjee made the following points: -

- That the local area profile indicated that establishments such as this one drained money from the local community.
- There was already a proliferation of gambling venues in the area.
- He was appealing to the local authority and its decision making.

In summing up, Mr Whur made the following points: -

- That the Committee should use their discretion to consider the points he had already outlined.
- The 5.3 Gambling Commission Guidance should be looked at, as it gave Members ample discretion to decide that the application could be refused and Mr Whur asked them to refuse the licence in those circumstances.

In summing up, Philip Kolvin, on behalf of the applicant made the following points: -

- That the representations had referred to a number of premises and the gambling premises as a trade, but it was not relevant to the hearing.
- There was not a local area profile in Erdington; the Council Policy had not identified one.
- The premises would not be allowing alcohol inside.
- His client intended to have proper supervision of the premises.
- Staff would be continually monitoring the premises, so there was no question of places being unnoticed.
- The Committee could condition that the premises be set out in a way to ensure proper surveillance.
- The robbery mentioned was something that they didn't know anything about, they had tried to make enquiries but had no further information.
- His client always installed proper security systems.

- That the reference Mr Whur made to the Gambling Commission Guidance was in relation to conditions to prevent the premises being associated with crime, however, door supervisors was a matter that would need to be risk assessed. It was not appropriate to attach conditions to that at this stage.
- That the Committee should take into account page 69 of the report.
- The Licensing Authority should aim to permit premises for gambling.
- The orientation was to permit the licence.
- He referred Members to page 71 and outlined the guidance.
- It was straightforward and appropriate that the licence be granted.

At this stage the meeting was adjourned in order for the Sub Committee to make a decision and all parties left the meeting. The Members, Committee Lawyer and Committee Manager conducted the deliberations in private and decision of the Sub-Committee was sent out to all parties as follows: -

5/070720

RESOLVED:-

That the application by Cashino Gaming Limited for a Premises Licence (Bingo) in respect of Merkur Slots, 220 High Street, Erdington, Birmingham, B23 6SJ be granted, with a condition that the premises shall close at 00.00hrs each day.

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Gambling Act 2005, and the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007, will also form part of the licence issued, together with those conditions volunteered in advance by the applicant, namely:

1. The premises shall install and maintain a comprehensive CCTV system. All entry and exit points must be covered enabling frontal identification of every person entering in a light condition including customer facing areas. The CCTV system shall continually record whilst the premises are open. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer of the Licensing Authority.
2. A staff member from the premises who is conversant with the operation of the CCTV system shall be in the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested and within a

maximum of 24 hours of the initial request.

3. Subject to Data Protection guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk/USB Stick for the Police or authorised officers of the Local Authority or UK Border Agency without difficulty, delay or charge.
4. Notices shall be prominently displayed within the premises stating that CCTV is in operation.
5. An incident log shall be kept at the premises and made available on request to an authorised officer of the Licensing Authority or the Police. Details to include:
 - i. all crimes reported to the venue
 - ii. all ejections of patrons
 - iii. any complaints received concerning crime and disorder
 - iv. any incidents of disorder
 - v. all seizures of drugs or offensive weapons
 - vi. any visit by a relevant authority or emergency service.
 - vii. any attempts by children and young persons to gain access to the premises to gamble
 - viii. Any Challenge 25 Refusals.
6. A think 25 proof of age scheme shall be operated at the premises where Any person who appears to be under 25 years of age, and who has not previously provided satisfactory proof to the contrary, is challenged at the point of entry. Acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
7. Signage advertising the aforementioned proof of age scheme shall be prominently displayed throughout the premises.
8. There shall be no pre-planned single staffing at the premises from 20:00 until closing. Should the premises be single staffed after this time, the magnetic door locking system must be in constant use.
9. Individuals who are deemed to be under the influence of excessive alcohol shall not be allowed to enter the premises.
10. The licensee shall participate in local Betwatch or similar scheme to promote knowledge sharing within the local industry, with particular regard to local risk but also to promote best practice.

11. The licensee shall take reasonable steps to prevent nuisance directly outside the Premises.
12. Gaming machines may be provided until 24:00

The Sub Committee deliberated the operating schedule put forward by the applicant and the likely impact of the application, including the volunteered conditions, and concluded that by granting this application, the three licensing objectives contained in the Gambling Act will be properly promoted.

The applicant's representative explained that the company was a highly experienced operator which currently held some 160 licences up and down the country, including six in Birmingham. Whilst the 'Merkur Slots' brand was a new aspect of the business, the company was confident that its considerable experience meant that it could promote the objectives properly, and the Report included a large amount of the company's own management material, detailing their practices and systems.

Bingo sessions were to be the primary activity. The demographic of bingo premise patrons was generally not one that included those likely to create crime, disorder or antisocial behaviour. The proposed operation would not serve alcohol, would not admit those under 18, and would close at 00.00hrs. There would be no single staffing of the premises after 20.00hrs. The Sub-Committee found all of this to be satisfactory.

No objections had been submitted by any of the responsible authorities, or any of the local ward councillors. Members carefully considered the representations made by other persons who attended the meeting to object to the application, but were not convinced that there was an evidential and causal link between the issues raised and the effect on the three objectives. Even considering the backdrop of the Erdington area, there was no reason to suppose that a highly experienced and responsible operator like Cashino Gaming Ltd would be unable to promote the objectives properly.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Principles Gambling Act 2005, the Guidance issued to Local Authorities by the Gambling Commission, the application for a Gambling Act Premises Licence, the written representations received and the submissions made at the hearing by the applicant, its legal adviser and by those making representations.

All parties are reminded that under the provisions contained within Schedule 10 to the Gambling Act 2005, there is the right of appeal against the decision of the Licensing Authority to the Magistrates'

Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

GAMBLING ACT 2005 PREMISES LICENCE – VARIATION OF A LICENSED GAMING MACHINE PERMIT – THE TENNIS COURT, WALSALL ROAD, PERRY BARR, BIRMINGHAM, B42 1TY.

Report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

No one attended.

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The Chairman introduced the Members and officers present and the Chair invited the Licensing Officer to outline the report.

Shaid Yasser, Licensing Section outlined the report.

There were no questions from Members.

At this stage the meeting was adjourned in order for the Sub Committee to make a decision and all parties left the meeting. The Members, Committee Lawyer and Committee Manager conducted the deliberations in private and decision of the Sub-Committee was sent out to all parties as follows: -

6/070720 **RESOLVED:-**

That the application by Stonegate Pub Company Limited for the variation of a Licensed Premises Gaming Machine Permit in respect of The Tennis Court, Walsall Road, Perry Road, Birmingham, B42 1TY be granted.

The Sub Committee deliberated the application, including policies and procedures, put forward by the Stonegate Pub Company Limited, and the likely impact of the application, and concluded that by granting this application, the three Licensing Objectives contained in the Act will be properly promoted.

The Members noted in particular that no representations had been made by Licensing Enforcement. The documents in the Report reassured the Sub-Committee that the applicant was an experienced operator which was mindful of its responsibilities.

Licensing Sub-Committee B – 7 July 2020.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Principles, the Guidance issued under Section 25 of the Gambling Act 2005 by the Commission, and the application for the variation of a Licensed Premises Gaming Machine Permit.

All parties are reminded that under the provisions contained within Schedule 13 to the Gambling Act 2005, the applicant has the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

Please note, the meeting ended at 1207.