

MINUTES OF LICENSING SUB-COMMITTEE

Tuesday, 18 January 2022
(11:20 am - 1:44 pm)

Present: Cllr Moin Quadri (Chair), Cllr Adegboyega Oluwole and Cllr Glenda Paddle

5. Declaration of Members' Interests

There were no declarations of interest.

6. Gambling Act 2005 - Application for Bingo Premises Licence - Merkur Slots, 247 Heathway, Dagenham RM9 5BG

The Council's Licensing Officer presented a report in respect of an application for a Bingo Premises Licence under the Gambling Act 2005, in respect of Merkur Slots (UK) Ltd at 247 Heathway, Dagenham, RM9 5BG. The application proposed that the premises would provide bingo by way of 20 G-Tab bingo tablets and 30 gaming machines, with 20% being Category B machines and the remaining machines with either Category C or D content. The application initially proposed that the premises would operate seven days a week between the hours of 09:00am and 02:00am, with bingo permitted between the hours of 09:00am to midnight only; however, following conciliation with the Metropolitan Police, the applicant proposed the operational hours of 09:00am to midnight each day.

Five representations had initially been received from two responsible authorities, which were the Council's Licensing Authority Responsible Authority Officer (LRAO) and the Metropolitan Police Licensing Officer (MPLO), as well as three local residents. The representations from the LRAO and MPLO had both been made under two of the three licensing objectives, namely 'preventing gambling from being a source of crime and disorder, being associated with crime & disorder or being used to support crime' and 'protecting children and other vulnerable people from harm or from being exploited by gambling', whilst the three representations received from local residents were raised under all three licensing objectives.

On 2 December 2021, a 'conciliation' meeting was arranged between officers from the applicant's company, the applicant's representative, the LRAO and the MPLO. This conciliation did not result in the withdrawal of any representation but as referred to above, resulted in a reduction of the operating hours from 02:00am to midnight each day. Further conciliation between the MPLO and the applicant's representative took place via email and resulted in the Police Licensing representation being withdrawn on the basis of the reduced operating times from 02:00am to midnight each day, and further additional conditions, as set out at section 2.17, page 9 of the agenda.

It was noted that the company currently operated under a similar bingo premises licence, at Cashino Gaming, 62 East Street, Barking, IG11 8RQ. There were five other gambling licensed premises in close proximity to the proposed premises.

The Sub-Committee then heard from the LARAO, who set out his representation as per page 61 of the agenda. The representation was made in support of the Council's Gambling Licensing Policy, which had been informed by the Council's risk assessment of local area vulnerability to gambling-related harm. The risk assessment took relevant Public Health, Police and socioeconomic data sets and used spatial analysis techniques to produce a model of vulnerability to gambling-related harm across the Borough. The risk assessment, together with that provided by the index of multiple deprivation, showed the Borough to be subject to widespread deprivation to which gambling-related harm contributed. As a consequence, the Policy stated its concern and opposition to the siting of further gambling premises in the most deprived or vulnerable and at-risk areas of the Borough, whilst asking operators to consider whether attempting to position more premises in such areas would be consistent with the licensing objectives.

The LARAO stated that the application sought to locate a new bingo premises in Dagenham Heathway, which was identified in the Policy as one of the most vulnerable and at-risk areas of the Borough. The applicant's own detailed risk assessment of the local area had highlighted a number of concerns, such as the area being classified as a high crime area, and being in the 30% to 40% most deprived areas in England according to the Index of Multiple Deprivation. It was noted that the immediate vicinity to the proposed premises was already served by five other gambling premises. Whilst there was to be a bingo offer at the premises, it was also noted that it was effectively an adult gaming centre.

Whilst the LARAO acknowledged the thoroughness of the documentation provided as part of the agenda, the large portfolio of premises operated by the company and consistency of policy and practice across these, as well as adjustments made by the company as part of the conciliation process, he questioned why the company considered Dagenham Heathway to be an appropriate location for a new gambling premises. Whilst the gambling regime was a permissive regime, with the law directing Councillors to aim to permit gambling as far as in accordance with law, regulations and guidance, the Council had a policy suggesting that the Heathway would not be an appropriate area for such a premises. He asked that Members be wholly satisfied that the company was taking appropriate measures to ensure that the premises could operate without detrimental effects on either the locality or the licensing objectives, if they were to grant the application.

In response to questions from Members, the LARAO stated that:

- Money laundering was not an issue that was considered by local authorities (LAs). The premises or the applicant company would have licenses from the Gambling Commission, who would look into the financial background and activities of a company, to ensure that money laundering was not occurring.
- In terms of the crime and disorder mentioned, the area had a Public Space Protection Order (PSPO) placed on it. Whilst few of the gambling premises in the vicinity had physical crimes listed against them, the congregation of such establishments and people gathering in the street could attract such issues, otherwise PSPO's would not be necessary.
- Whilst risk assessments on the company's marketing strategy had not been undertaken, the company prided itself on believing that it offered a high-

class establishment that was comfortable and inviting, and this could draw more people to the area, potentially resulting in more issues around its vicinity.

The Sub-Committee then heard from the barrister representing the applicant, who set out the applicant's case for the granting of the licence. He noted that the LARAO's representation centred on policy, rather than evidence as to whether the proposed premises would be detrimental to the licensing objectives and locality, and that there was no evidence in relation to this, as shown in the documents submitted by the applicant.

The barrister referenced Section 153 of the Gambling Act 2005, explaining the law around the gambling regime and its permissive nature, as well as the Gambling Commission guidance which needed to be referenced as part of this. This created a presumption that LAs should grant a licence where there was to be reasonable consistency with the licensing objectives, that LAs could not refuse a licence solely because they felt that gambling was harmful or undesirable, and that refusals had to demonstrate evidence that the licensing objectives were not met or were unlikely to be met. The company operated 190 premises nationally, with one in Barking with similar levels of deprivation, without any evidence of harming the licensing objectives.

The barrister noted that the Gambling Act 2005 stated that demand for a product and the likelihood of getting planning permission were irrelevant, meaning that the number of other gambling establishments within the vicinity were not able to be considered. In any case, the Council had already granted planning permission for the premises. The Gambling Commission advised that if there were any issues or concerns, the LA should try to deal with this through necessary conditions to make the premises suitable. The applicant had already proposed a number of conditions, which other gambling establishments in the area did not have, which had led to the withdrawal of the Police representation.

The barrister then made reference to ten brief points of evidence:

- The applicant was one of the most experienced and largest operators of gaming on the High Street in the UK and was licensed by the Gambling Commission. Its systems to promote the licensing objectives were internationally accredited, with its national area and local management, and staff training, designed to support the licensing objectives;
- The applicant had 190 premises nationally, with over 50 in London, and many of these were in very challenging locations. The applicant had been granted a license in every single premises that it had applied for and had never had a review of any of these. This was due to extensive planning, training, auditing, mystery shopper exercises and liaising with LAs;
- The applicant had operated a premises in Barking for the last ten years until 02:00am, which was two hours longer than the proposed premises. This premises had recently undergone an inspection by the LARAO, who had registered no concerns. As per page 129 of the agenda, an Independent Witness had also covertly visited this premises, with nothing adverse to report. The local area profile, produced for the Council's Statement of

Licensing Policy, showed Barking to be an area of higher risk than Dagenham. There was no evidence that the Barking premises was causing harm to any of the licensing objectives, as well as trading for longer hours;

- The applicant's ten closest sites to the premises, including five which were in the same decile of the Index of Multiple Deprivation as Dagenham, showed no evidence of harm in relation to any of them, with no reviews or regulatory interventions. No issues had been identified by the LARAO or the Metropolitan Police as to existing venues at the conciliation meeting on 2 December 2021, with the Police later withdrawing their representation;
- The applicant put in various means to ensure safe and welcoming environments, such as not allowing alcohol in any of its premises, staff interacting with customers to ensure safe gambling, and CCTV deployed inside and outside of its premises;
- Each venue had a Think 25 Policy and did not allow children to enter. There were numerous means in place to discourage the interest of children and prevent their access, such as ensuring that they could not see in to the premises, no external marketing towards them, audits of Challenge 25 logging and third party independent age testing verification;
- Clients who were deemed to be intoxicated through alcohol or drugs were not permitted to enter the premises. There were various means to support vulnerable people, such as a self-help app called Play Right, to help players manage their gambling behaviour, 'stay in control' signage and GamCare helpline numbers displayed on leaflets and throughout the venue. Customers could self-exclude, and staff were able to ban clients from their premises in rare cases that customers who ought to self-exclude, did not;
- If the license was granted, the applicant would be subject to extensive legal obligations, as well as conditions offered by the applicant itself, and those offered following consultation with the Metropolitan Police. The nearest competitor in Dagenham, which offered bingo machines with the same stake and prize limits as the applicant, had a 24-hour licence and no added licence conditions. This premises had not been subject to a review;
- The applicant had produced an extensive local area risk assessment of Dagenham, and put in measures to mitigate against potential risks. If the applicant found that more resource and different measures were required, then these would be applied. The applicant would need to refresh its risk assessment periodically, which it would do following opening; and
- The Gambling Commission advised that in order to justify not granting the licence, there needed to be a demonstration that the licensing objectives would not be met. There was no evidence as to this. If any issues ever arose, there were well resourced systems in place to ensure that these could be handled effectively.

In response to questions from Members, the barrister for the applicant stated that:

- The applicant offered bingo tablets, which enabled the customer to play a

game which was generated by the tablet, to link through to the Internet to games which were provided by the company, and to link to national games, which had a £0.10 base level. Gaming machines were also on the premises: 80% of these were category C & D machines, which were the same categories as those in pubs and seaside arcades, with a per spin one pound stake and £100 prize. 20% of the gaming machines were category B3, with the same stake as allowed in betting offices and adult gaming centres.

- There was not a cap on what could be spent in these premises, or any gambling premises elsewhere in the UK; as with all retail goods and services, this was left to customer discretion. However, subject to the unique feature in relation to gambling, if the customer looked like they were vulnerable, then this would trigger the necessity for an interaction.
- Customers would be able to gamble in the venue with cash or a debit card, in the same way as in any gambling premises. The applicant also had sophisticated and advanced systems to detect money laundering.

In response to questions from Members, the Operations Director at Merkur Slots UK Limited (ODMS) stated that:

- Merkur Slots had opened 50 premises in the last year, and had no issues with children trying to access their venues. It had a very robust Think 25 Policy and there were door chimes which sounded as customers entered their venues, which would alert staff who were circulating the shop floor.
- Merkur Slots had a check policy company, which came to inspect its ability for employees to detect people under the age of 25, with Merkur Slots' percentage pass rate being far higher than the industry average.
- The venue exteriors were not particularly attractive environments for children. There were no flashing lights and they were very well kept.

An Independent Witness from Leveche Associates stated that it had undertaken multiple visits to Merkur Slots premises over the last year. In relation to the existing Dagenham premises, it had not encountered children at any times in these premises. Whilst there were many children in the Dagenham area between 3:30-4:30pm, none of them showed any interest in the Gaming Fun premises or any other betting premises in the area.

In response to further questions, the barrister representing the applicant stated that:

- The applicant had submitted a Freedom of Information request to the Metropolitan Police, asking about the levels of crime in Dagenham associated with existing gambling premises. This equated to 0.7 crimes per year.
- The applicant operated a strict Challenge 25 system and staff were trained on what to look out for. If a person was challenged, then they could only gamble if they could produce an approved form of identification, and staff were trained to ensure that this was not forged. Every challenge was

recorded on staff tablets, which were analysed by the Merkur Slots audit department. Independent age verification testing also took place through mystery shoppers and auditors were sent to premises twice a year, during which staff were tested on their knowledge of Challenge 25, retaking training if necessary.

- Staff underwent a six-week training process, which took place in the Merkur Slots National Training Centre and in the venue itself under supervision.

In response to questions from the LARAO, the ODMS stated that:

- The company had a full six-week training program for its new premises, where the employees were brought in and assigned to other nearby branches to complete their training. Barking had already been identified as a training branch. There were a number of experienced staff identified in the existing business who would be transferred to the Dagenham premises, as well as deliver training, should the application be approved.
- Merkur Slots staff had meaningful interactive discussions with its customers, and this did lead to exclusions across all of its venues, where customers were generally excluded for their own wellbeing.
- Whilst there were not lots of people using the Play Right app, there was no silver bullet to helping people to help themselves. Instead, it was about multiple means such as how staff dealt with customers, the look of the premises, the app itself, and messaging on machines and in the venues.

The Senior Auditor at Merkur Slots UK Limited (SAMS) stated that there were 1,527 exclusions across its venues from May to November 2021. If a customer wanted to return after their exclusion, a meeting would be convened, and there was also a 'cooling-off' period before they returned. Minimum self-exclusion was for six months, with the opportunity to extend for a further six months. Both the barrister and the SAMS stated that venue staff very quickly got to know regular local customers and that their relationships would enable them to notice any changes in their behaviour, addressing any issues as necessary.

Each party was given the opportunity to sum up. The Sub-Committee then retired to consider its decision in private at 01:18pm, reconvening the meeting at 01.38pm.

Decision

Whilst the Sub-Committee remained concerned about additional gambling venues in what was noted as a deprived area, it accepted entirely that the applicant had met the test for the grant of the licence.

Its decision was therefore to **grant** the application, to include as offered, as part of the licence conditions, the additional conditions offered by the applicant (the revised opening times) and the seventeen conditions offered by the applicant at pages twenty-one to twenty-two of the first supplementary bundle to the agenda:

1. Premises to close and cease all gambling activities: Monday to Sunday at

midnight.

2. 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
3. For 3 months from the date the premises is open to the public, the date to be confirmed in writing to the Licensing Authority, a SIA licensed door supervisor shall be on duty from 21:00 until close every day. Following the initial 3-month period, the requirement for door staff shall be risk assessed and cognisance taken of police advice.
4. Third party testing on age restricted sales systems shall be carried out on the premises at least 2 times a year and the results shall be provided to the Licensing Authority upon request.
5. If at any time (whether before or after the opening of the premises), the police or licensing authority supply to the premises names and/or photographs of individuals which it wishes to be banned from the premises, the licensee shall use all reasonable endeavours to implement the ban through staff training.
6. The Licensee shall implement a policy of banning any customers who engage in crime, disorder or anti-social behaviour within or outside the premises.
7. The licensee shall participate in a local Betwatch or similar scheme, where available.
8. Key staff members will receive first aid training.
9. The Company's staff guard system or similar shall be installed and maintained at the premises, which allows direct communication with a central monitoring station permitting audio and CCTV communication.
10. The premises shall install and maintain a comprehensive CCTV system, which shall continually record whilst the premises are open. All recordings shall be stored for a minimum period of 31 days. Viewing of recordings shall be made available upon the request of Police or an authorised officer of the Licensing Authority, subject to data protection legislative requirements.
11. Notices shall be prominently displayed within the premises stating that CCTV is in operation.
12. 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:
 - a. all crimes reported to the venue
 - b. all ejections of patrons
 - c. any complaints received concerning crime and disorder
 - d. any incidents of disorder

- e. all seizures of drugs or offensive weapons
- f. any visit by a relevant authority or emergency service.
- g. any attempts by children and young persons to gain access to the premises to gamble
- h. any Challenge 25 Refusals.

13. 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.

14. Individuals who are deemed to be under the influence of excessive alcohol shall not be allowed to enter the premises.

15. The appropriate staffing levels will be assessed by way of risk assessment and cognisance will be taken of any police advice

16. The licensee shall take reasonable steps to prevent nuisance directly outside the Premises.

17. A magnetic locking device, commonly referred to as a Maglock will be installed and maintained on the main entrance/exit to the premises which will be operable by staff members.

In coming to this decision, the Sub-Committee had considered the Gambling Act 2005, the statutory guidance, the Council's Statement of Gambling Policy and relevant articles of the Human Rights Act 1998.